1811.

SUPREME COURT OF THE UNITED STATES.

No. 125.

JOHN G. SHIELDS, Appellant,

vs.

ISAAC THOMAS and MARY, his wife; NANCY PIRTLE, JOHN B. GOLDSBERRY, THOMAS STARKS and ELIZABETH, his wife; JAMES PICKET and ANN, his wife.

IN ERROR TO THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF IOWA.

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UNITED STATES DISTRICT COURT,
for the Northern Division of Iowa:

Pleas before the Hon. J. J. Dyer, Judge of the United States District Court for the Northern Division of the State of Iowa, at the January term of said Court, holden in the city of Dubuque, State aforesaid.

Present, J. J. DYER,
Judge.
" P. S. PARVIN,
Clerk.
" L. SUMMERS,
Marshal.

ISAAC THOMAS and others
vs.
JOHN G. SHIELDS.

To the Honorable John J. Dyer, Judge of the District Court of the United States, within and for the District of Iowa, sitting in equity.

NORTHERN DIVISION OF THE DISTRICT OF IOWA:

July Term, 1853.

To the July term of the District Court of the United States for the District of Iowa, Isaac Thomas and Mary Thomas, his wife, Uriah Pritle and Nancy Pritle, his wife, all citizens of the State of Kentucky, and John B. Goldsbery, a citizen of the State of Missouri, bring this their bill against John G. Shields, a citizen of the State of Iowa, the complainants and defendants being citizens of different States.

And thereupon your orators and oratrices complain and say, that heretofore, to wit: on the 28th day of October, 1846, in the Grayson County Court in the State of Kentucky, in a certain proceeding in Chancery, wherein Joseph H. Thomas and Elizabeth Thomas, his wife, and the said Uriah Pritle and said Nancy Pritle, were complainants, and the said Isaac Thomas and said Mary Thomas, said John B. Goldsbery, James Shields, Henry Yater, and said John G. Shields and others were defendants; by the consideration and judgment of said Court, the said John G. Shields, said James Shields, and said Henry Yater, jointly and severally, were decreed and ordered to pay to said Joseph H. Thomas and said Elizabeth, his wife, the sum of eight hundred and seventy-two dollars; to the said Uriah Pritle and said Nancy Pritle, his wife, the sum of eight hundred and seventy-two dollars; to the heirs of Bennett Goldsbery, deceased, the sum of ten hundred and thirty-eight dollars; to the said Isaac Thomas and said Mary, his wife, the sum of two hundred and fifty-four dollars; and to the said complainants in said suit their costs therein expended, to wit: $66\frac{73\frac{1}{2}}{100}$ dollars, which sums in and by the said Court were then and there adjudged and decreed to the complainants in this suit, respectively, for the balance respectively due them for the value of certain property of the estate of John Goldsberry late of the county of Nelson, and State of Kentucky, deceased; all which will more fully appear by the records and proceedings thereof, a certified transcript of which is hereto annexed marked A, and asked to be taken as part of this bill. That said judgment and decree still remains in full force and effect, not reversed, complied with, satisfied, or otherwise vacated; and that these complaints, or either of them, have not obtained any execution or satisfaction of or upon said judgment and decree so rendered in their favor as aforesaid. And that the said John G. Shields, said James Shield, and said Henry Yater, or either of them, have not as yet paid the said several sums of money to the respective parties to whom due, or any part of said sums. And that these complainants and each of them have suffered great damages by the non-compliance on the part of said defendants with said decree, and the delay in their obtaining execution of the same, to wit: damages in the sum of 5,000 dollars.

And the complainants state, that the said John B. Goldsbery is an heir at law of said Bennett Goldsbery, deceased, and is the same person who is named John Goldsbery, one of the three heirs of said Bennett Goldsbery in the said proceedings of the said Grayson Circuit Court, and that he is entitled to receive one-third of the amount so due to said heirs.

And the complainants further state that the said James Shields and said Henry Yater made no appearance in the said proceedings in said Grayson Circuit Court, nor were they served with process, but that the said John G. Shields appeared and filed an answer in the same.

And the complainants further state that the said Joseph H. Thomas is now dead; that the said Elizabeth Thomas was and is the person in whose right the said sum of 872 dollars was decreed; that she is now a *feme sole* and a citizen of the State of Iowa, and that she cannot be joined as a party in this suit without ousting the jurisdiction of this Court as to the other parties.

And the complainants further state that the said Elizabeth Goldsbery and said Ann Goldsbery are two of the heirs of said Bennett Goldsbery, deceased, and are entitled to receive each one-third of the amount due to said heirs; that they are citizens of the State of Missouri, and without the jurisdiction of this Court.

The complainants, Isaac Thomas and Mary Thomas, pray that the said John G. Shields be ordered and decreed to pay to them the said sum of 254 dollars, and damages for the detention of the same, from said 28th of October, 1846, and costs: And the complainants, Uriah Pritle and Nancy Pritle, pray that the said John G. Shields be ordered and decreed to pay to them the said sum of 872 dollars and damages for the detention thereof, from said 28th of October, 1846, and costs: And the complainant, John B. Goldsbery, prays that the said John G. Shields be ordered and decreed to pay to him the one-third sum of 1,038 dollars, to wit: 346 dollars, and damages for the detention thereof, from said 28th of October, 1846, and costs: And your orators and oratrices, and each of them, pray that the said John G. Shields be compelled to abide by and perform the said decree of the said Grayson Circuit Court of the State of Kentucky, and that they, and each of them, have all such other and further relief as the nature of the case may require, and to your Honor may seem meet.

May it please your Honor to grant unto your orators and oratrices the most gracious writ of subpœna of the United States of America, to be directed to the said John G. Shields, thereby commanding him at a certain day, and under a certain pain, therein to be specified, personally to be and appear before your Honor in this Honorable Court, and then and there to answer all and singular the premises and to stand to, perform, and abide such order and decree therein, as to your Honor shall seem meet.

And your petitioners will ever pray.

McKINLEY & BISSELL,
Solicitors for Complainants.

PLATT SMITH,
Counsel for Complainants.

(*Statement*—A.)

STATE OF KENTUCKY,
Grayson Circuit, sct:

Pleas at the Court-house in Leitchfield, before the Honorable Richard A. Buckner, Commonwealth Circuit Judge, and Judge of the Grayson Circuit Court, on Thursday, the 31st day of October, 1844.

(*Parties.*)

JOSEPH H. THOMAS & ELIZABETH, his wife, URIAH PRITLE & NANCY, his wife, complainants in Chancery,

against

ISAAC THOMAS & MARY, his wife, JOHN GOLDSBERY, ELIZABETH GOLDSBERY, and ANN GOLDSBERY, infant children of Bennett Goldsbery, deceased, JAMES SHIELDS, and ELENOR, his wife, JOHN SHIELDS, HENRY YATER, and JAMES BURTLE, executor of Andrew Burtle, deceased, and CATHARINE MERRITT & JACKSON MERRITT, her husband, ELLEN BURTLE, ANDREW BURTLE, and WILLIAM BURTLE, heirs of Joseph Burtle, deceased, Defendants.

when they got there, and called on the said Shields and wife for a division of said slaves and estate, and to pay over to them their part of the same, the said Shields and wife refused to do so, and in order to cheat and defraud your orators and oratrixes out of the said slaves and their portion of said estate, confederating and combined with John Shields, the son of the said James and Elenor, and Henry Yater, the son-in-law of the said James and Elenor, who agreed to aid and assist the said James and wife, and who did aid and assist the said James and wife to secrete, hide and run off to parts unknown to these complainants, the whole of said slaves except Pat, who is now old and worthless; and the said John Shields and Yater, with the view, intent and design to aid and assist the said James and wife to cheat and defraud the children and heirs aforesaid of the slaves and out of the estate of the said John Goldsberry, dec'd, in the hands of the said James and wife, did, at the instance of said James and wife, run off and did sell and dispose of the same, and received therefor the sum of $, and did further aid, advise and assist the said James and wife to fraudulently give, grant, sell and convey away, all of the property belonging to the said James and wife to the children and friends of the said James and wife, with the view, design and intent to cheat, defraud, hinder and delay the said children and heirs of the said John Goldsberry out of the estate in the hands of the said James and wife due to and coming to said children and heirs of said John; and they further charge that the said James and wife now refuses to make distribution and division of the slaves and estate due and coming from them to these complainants, and are insolvent and unable to do so, or pay to them what is justly due and coming to them of the estate of the said John Goldsberry, deceased. They charge that the said John Shields and the said Yater, both had full knowledge of the right and claim of these complainants to the said slaves, as set forth in this bill, at and before the time they run them off and sold them, as before stated, and done so for the purpose of aiding and assisting the said James and wife to cheat and defraud these complainants out of the same. Now, may it please your Honor, the premises considered, and inasmuch as they are without remedy in the same at law, and can only be relieved in equity, where fraud, hardship, &c. can be more properly relieved, to grant them the Commonwealth's writ of Spa. in Chancery, directed, &c., commanding, &c., whereby the said Isaac Thomas and Mary his wife, and the said Elizabeth, John and Ann Goldsberry, the infant children and heirs at law of the said Bennetts Goldsberry, deceased, and the said James Shields and Elenor his wife, and the said John Shields and Henry Yater, all of whom they make defendants to this bill, may be compelled to appear and answer on oath all and singular the allegations of this bill, separately and distinctly, as if the same were repeated to each defendant, by way of special interrogatories. That your Honor will cause an account to be taken and made of the value of the said slaves, and of the work, labor and hire of the same since they came in the hands of the said James and wife: and that your Honor make division and distribution of the slaves, if to be had, and the other estate in the hands of the said James and wife, belonging to these complainants; and that if the slaves cannot be had, then your Honor decree against the said James and wife, and the said John Shields, and the said Yater, for the value of the said slaves and their hire, &c., found due and coming to these complainants; and furthermore, grant unto them all such other and further relief as they may show themselves entitled to; and they, as in duty bound, will ever pray, &c.

CRADDOCK & CALHOUN,
for Complainants.

They state that the said James Shields and his wife Elenor and John Shields and Henry Yater are now within this Circuit and the jurisdiction of this Court; they charge that Andrew Burtle, who is now dead, was the security of said Elenor in her administration bond, a copy of which bond is here filed and made a part of this bill; that when said Andrew Burtle died, he made his will, which was duly proven and recorded, and that James Burtle was duly appointed and qualified executor of said Andrew Burtle, and that there came into the hands of said James estate and assets of the estate of said Andrew sufficient to pay and satisfy the amount due and coming to the complainants from the said James Shields and wife, and that said James Burtle is yet the executor of said Andrew; they make the said James Burtle, executor of the said Andrew Burtle, deceased, defendant to this bill, and prays process against him, and that he may answer all the allegations of this bill, and that your Honor decree against him as executor of said Andrew, &c. The exhibits referred to in the foregoing bill, and made part thereof, are as follows, to wit:

(*Order of Granting Administration to E. Goldsberry.*)

NELSON COUNTY, ss:

SEPTEMBER COUNTY, *County* COURT, 1798.

On the motion of Elender Goldsberry, who made oath according to law, and executed and acknowledged bond with Andrew Burtle, her security in the penalty of seven hundred and fifty pounds, conditioned as the law directs, administration of the estate of John Goldsberry, her deceased husband, is granted unto her.

A Copy.

Teste, NATH'L WICKLIFFE,
C. N. C. C.

(*Order Appointing Ap't.*)

NELSO COUNTY, ss:

SEPTEMBER COUNTY COURT, 1798.

Ordered that John Hobbs, Christo Birkhead, Isaac Hibbs and

Joseph Furman, or any three of them, being first sworn before a magistrate of this county, do appraise the slaves of any, and personal estate of John Goldsberry, dec'd, and return the appraisement thereof to the next court.

A Copy.

Teste, NATH'L WICKLIFFE,
C. N. C. C.

(*Adm's Bond.*)

Know all men by these presents, that we, Elenor Goldsberry and Andrew Burtle are held and firmly bound unto John Robertson, Wm. Kendall, and Jacob Yader, Gent., Justices of the Peace in and for the county of Nelson, in the penal sum of seven hundred and fifty pounds, current money of Kentucky, to be paid to the Justices aforesaid, and their successors; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seal, and dated this 11th day of September, 1798.

The condition of this obligation is that if the above bound Elenor Goldsberry, administratrix of the goods, chattels and credits of John Goldsberry, dec'd, do make a true and perfect inventory of all and singular the goods, chattels, and credits of the said dec'd, which have or shall come to the hands, possession, or knowledge of her, the said Elenor Goldsberry, or in the hands or possession of any other person or persons for her, and the same so made, do exhibit into the County Court of Nelson, when she shall be thereto required by the said Court, and such goods, chattels, and credits do well and truly administer according to law, and further do make a just and true account of her actings and doings therein, when thereto required by the said Court, and all the rest of the said goods, chattels, and credits which shall be found remaining upon the account of the said administrator, the same being first examined and allowed by the Justices of the said Court, for the time being, shall deliver and pay unto such persons respectively as are entitled to the same by law, and if it shall hereafter appear that any last will and testament was made by the dec'd, and the same be proved in Court, and the executor obtain a certificate of the Probate thereof, and the said Elinder do in such case, being required, render and deliver up her letters of administration, then this obligation to void, else to remain in full force.

her
ELENDER × GOLDSBY. [SEAL.]
mark.
ANDREW BURTLE. [SEAL.]

A Copy. Test., NATH'L WICKLIFFE,
C. N. C. C.

(*Inventory.*)

The inventory of the appraisement of the estate of John Goldsberry, deceased, referred to in the foregoing bill, and made part thereof, is as follows, to wit:—

Inventory of the Estate of John Goldsberry, dec'd.

	£	*s.*	*d.*
By cash	18	0	0
1 negro man named Matthew	100	0	0
1 do. girl " Patt	70	0	0
1 roan mare, 25*l.*; 1 bay horse, 16*l.*; 1 sorrel do., 14*l.*	55	0	0
1 wagon and harness, jack-screw, &c.	40	0	0
6 weeding hoes, 21*s.* 2*d.*; mattocks, 36*s.* 3*d.*; narro axes, 27*s.*	4	4	0
2 sets of plough irons and stocks . . .	4	14	6
1 black horse	10	0	0
1 shovel, plough, screws and bolts, 15*s.* 5*d.*; horse shoes, 5*s.*	1	0	0
3 iron wedge, 18*s.*; clevises and sundry other irons, 27*s.*	2	5	0
Chisels, augers, and sundry irons, 30*s.* 6*d.*; one saw, 10*s.*	2	0	6
4 reap hooks, 9*s.*; one coulter, 9*s.*; pr. steelyards, 20*s.*	1	18	0
1 saddle, 66*s.*; pot metal, 42*s.* 6*d.*; one pan, 6*s.* .	5	14	6
Pot hooks and other irons, 13*s.* 6*d.*; iron fitters, 9*s.* .	1	2	6
Wooden-ware and sifter, 3*s.* 6*d.*; tin bucket, 6*s.* .		9	6
1 pr. wool cards, 4*s.* 6*d.*; pr. cotton do., 5*s.* 6*d.* .		10	0
Spice mortar and pestle, 9*s.*		9	0
Quantity of pewter, 88*s.*; spoons, 6*s.*	4	14	0
Tea kettle, 21*s.*; gimlets, 5*s*; knives and forks, 15*s.*	2	1	0
2 jacket patterns, 11*s.* 6*d.*; pot trammel, 7*s.* 6*d.* .		19	0
3 knives, 2*s.* 6*d.*; strainer, 2*s.* 6*d.*; old trunk, 1*s.* .		6	0
Pair of pincers and other articles, 5*s.*; 1 chest, 4*s.*; slate, 2*s.*; horse fleams, 3*s.*		14	0
Case of razors, 3*s.*; currycomb, 1*s.*; smoothing-irons and stands, 8*s.* 6*d.*; candlesticks, 1*s.* 6*d.* . . .		14	0
2 pr. scissors, 1*s.* 6*d.*; one rifle gun and powder-horn, 6*l.*; 4 books, 7*s.* 6*d.*; teapot and other articles, 16*s.* 6*d.*	7	5	6
1 trunk, 9*s.*; B. cows and calves, 10*l.*; 3 chairs, 7*s.* 6*d.*; 3 bed furniture and bedsteads, 20*l.*	30	16	6
1 looking-glass, 4*s.* 6*d.*; two handkerchiefs, 16*s.*; wearing apparel, 17*s.* 5*d.*	18	1	0
	383	15	0

E. E.

Appraised by—

JNO. HOBBS,
CHRISTO BURKHEART,
JOSEPH FORMAN.

I do hereby certify that the within Joseph Forman, Christopher Burkheart, and John Hobbs were duly sworn to appraise the within estate.

Given under my hand this 23d of November, 1798.

JOSHUA HOBBS.

ELENOR GOLDSBERRY,
Adm't'x.

At a Court held for Nelson County, on Tuesday, the 11th day of December, 1798, this inventory and appraisement of the estate of John Goldsberry, dec'd, was returned, and ordered to be recorded.

Attest, BEN GRAYSON, *Cl'k.*

A copy from the original was filed in the County Court, Clerk's office of Nelson County.

Attest, NATHANIEL WICKLIFFE,
C. N. C. C.

(*Warning Order.*)

And at a Court held for the Grayson Circuit, on Monday, the 28th day of October, 1839, it appearing to the satisfaction of the Court that James Shields and Elenor Shields, his wife, Elizabeth Goldsberry, John Goldsberry, Ann Goldsberry, John Shields, and Henry Yater are no inhabitants of this Commonwealth. It is ordered that they appear here at the next April Term of this Court, and answer to the complainants' bill.

And afterwards, to wit: on the 25th day of December, 1839, the following Chancery subpœna issued, to wit:—

(*Chancery Subpœnas.*)

The Commonwealth of Kentucky to the Sheriff of Grayson County, greeting: We command you to summon Isaac Thomas, and Mary, his wife, and James Burtle, executor of Andrew Burtle, dec'd, to appear before the Judge of Grayson Circuit Court, at the Courthouse in Litchfield, on the first day of our next April term, to answer a bill in Chancery exhibited against them and others, in our said Court, by Joseph H. Thomas, and Elizabeth, his wife, Uriah Pritle, and Nancy, his wife, and have then and there this writ.

Witness Jack Thomas, Clerk of our said Court, at the Courthouse aforesaid, this 25th day of December, 1839, and in the 48th year of the Commonwealth.

JACK THOMAS,
C. G. C. C.

Endorsed: Executed on James Burtle this 28th of February, and on Isaac Thomas and Mary Thomas this 11th of March 1840.

WM. PATTERSON,
S. G. C.

And afterwards, to wit: at a court held for the Grayson Circuit, at the Court-house in Litchfield, on Tuesday the 28th day of April, 1840, this cause was continued.

Traverse filed.

And afterwards, to wit, at a court held for the Grayson Circuit, on the 29th day of April, 1840, by order of the Court, the clerk traverses and denies the allegations in the complainant's bill, for and and on behalf of the absent now resident defendants, on the motion

(*James Burtle, Answer filed.*)

of the defendant, James Burtle, who made oath to, and filed his answer to the complainant's bill.

(*Jas. Burtle: Answer.*)

The answer of James Burtle is as follows, to wit:

The answer of James Burtle to a bill of complainants, exhibited against him and others in the Grayson Circuit Court, by Joseph H. Thomas and wife, this respondent for answer says, that he admits that about forty-two years ago, John Goldsberry departed this life in the county of Nelson, and he has understood the widow of the said Goldsberry, who is the sister of this respondent, administered on his estate; he also admits that not long after the death of her first husband, say a year or two, she married James Shields. He admits the names of the first children are truly set out in the bill, and that Bennet died, and his heirs are truly set out; he admits that the daughters of John Goldsberry married the persons named in the bill; but at what age each of the girls had arrived to, before they respectively married, this respondent cannot now state; if under twenty-one, he requires proof of the same. This respondent says he knows nothing of the inventory or appraisement bill referred to in the bill; he says it has been near forty-two years since John Goldsberry died, and letters of administration was granted to his widow; that the law presumes a full and complete settlement has been made with each distributer; that the youngest of the children of John Goldsberry arrived at full age more than twenty years before this suit was commenced; that she was not an infant, as this respondent charges and believes when she was married to Joseph H. Thomas, and he calls on her to state on oath her age from the best information she has obtained, and when she was married; this respondent says that the wife of John Goldsberry and her husband, James Shields, raised the children of said Goldsberry suitable to their rank and station in life; this respondent says he understand, and so charges the fact that U. Prithe and wife, Isaac Thomas and wife, complainant and wife, and Bennett Goldsberry, received from the administratrix their share and portion of their father's estate, according to the appraisement bill. This respondent states that James Shields purchased a tract of land of Campbell, and paid him the negro man Mat; that the land was lost, and Campbell's agent refunded the purchase-money, with interest; which money was paid to Isaac Thomas, and he sent it to Shields in Missouri, which goes to confirm the belief of this respondent, that the heirs of John Goldsberry have no claims against the administratrix; this respondent admits there were two negroes, Mat and Pat; that Mat was sold to Campbell, and Pat was carried to Missouri by Shields and wife; this respondent says he has been informed, and charges the fact, that the said heirs of John Goldsberry went to the State of Missouri, and there impleaded in a court of that State, which had jurisdiction of the cause, the said Shields and wife for their portion of their father's estate; that Shields and wife defended said suit, and on the merits the cause was decided in favor of Shields and wife; which record, when the same can be procured, will be filed as part of this answer, and is plead in bar of this suit. This respondent says that his father has been dead upwards of twenty-four years; that this respondent admits that he is executor of his will, and his estate has long since been distributed to his heirs to wit: Mrs. Shields, Mrs. Horrill, Mrs. Harwood, Joseph Burtle, who is dead, and left children, Mrs. Goldsberry, wife of Jonathan Goldsberry, and this respondent, six in all. This respondent pleads, and relies on the length of time as a bar to the present demand; he denies all fraud, and prays to be dismissed with his costs, &c.

Heard in 1840, April 28. Sworn to in the Clerk's office.

(Attest) JACK THOMAS,
C. G. C. C.

And afterwards, to wit: at a Court held for the Grayson Circuit, on Tuesday, the 28th day of July, 1840.

(*Jos. H. Thomas's Answer filed, and Bill filed.*)

This day, Joseph H. Thomas came into Court and filed his answer to James Burtle answers. By consent, leave is given the parties to take depositions in and out of the State; to be taken before one Justice of the Peace. The complainant filed an amended bill.

(*A. Burtle's Answer filed.*)

By consent, the heirs of Andrew Burtle, deceased, appeared and entered their appearance, and by consent they adopted the answer of James Burtle as their answer, with oath.

(*Jos. H. Thomas's Answer filed.*)

Joseph H. Thomas and wife's answer to James Burtle's answer is as follows, to wit:—

The answer of Joseph H. Thomas and wife to the interrogatories put to them in the answer of James Burtle to the bill of J. H. Thomas and wife, exhibited against James Shields and others in the Grayson Circuit Court; these respondents admit that Elizabeth Thomas, wife of compl't, J. H. Thomas, is the youngest child of John Goldsberry, deceased; that they were married in the fall of 1819, they believe, and that she was 43 years old last January. These are admitted as facts in the cause.

JOSEPH H. THOMAS.
J. JENNINGS,
for Compl't.

(*Amended Bill.*)

The complainants' amended bill is as follows, to wit:—

GOLDSBERRY HEIRS
vs.
JAMES SHIELDS and OTHERS.

In Chancery, in the Grayson Circuit Court.

The complainants, by leave of the Court, amend their bill herein. They discover from the answer of the def't, James Burtle, that he says he has distributed the estate of Andrew Burtle, deceased, to his heirs, who are made def'ts to this and their original bill (viz): James Shields and wife, Henry B. Horrel and Elizabeth his wife, Nancy Harwood, Jonathan Goldsberry and Polly his wife; and Joseph Burtle's heirs (viz): Andrew, Wm. and Ellen Burtle, and Jackson Merritt, and Cyntha his wife, formerly Cyntha Burtle, and the defendant, James Burtle and wife, are all made defendants; the complainants charge that they rec'd estate by distribution to the amount of $ each; they pray the said defendants to answer said bill, and on a final hearing pray for all general relief, &c.

J. JENNINGS,
for Compl'ts.

(*Chancery Subpœnas J. Shields.*)

And afterwards, to wit: on the 22d day of March, 1841, the following Chancery subpœna issued against John Shields, to wit:—

The Commonwealth of Kentucky to the Sheriff of Grayson County, greeting: We command you to summon John Shields to appear before the Judge of our Grayson Circuit Court, at the Court-house in Litchfield, on the 1st day of our next April Term, to answer a bill and amended bill in Chancery, exhibited in our said Court by Joseph H. Thomas and others against the said John Shields and others, and have then there this writ. Witness Jack Thomas, clerk of our said Court, at the Court-house aforesaid, this 22d day of March, 1841, and in the 49th year of the Commonwealth.

JACK THOMAS,
C. G. C. C.

Upon which the Sheriff made the following return:—

Executed on the within named John Shields, on the 22d day of March, 1841.

WM. BRUNK,
S. G. C.

And afterwards, to wit: at a Court held for the Grayson Circuit, on Monday, the 26th day of July, 1841, came the complainant, and filed amended bill in this cause; which amended bill is as follows, to wit:—

(*Amended Bill.*)

Joseph H. Thomas and Elizabeth his wife, and Uriah Pritle and Nancy his wife, by way of amendment to their bills heretofore filed, and now pending in Chancery, in the Grayson Circuit Court, against James Shields and Elenor Shields, his wife; and other defendants charge that the said Elenor Shields has, since the last term of this Court, departed this life. They further charge, that said James Shields and wife held the said slaves mentioned in their original bill up to the time they left this State, as the property of the estate of the said John Goldsberry, deceased, subject to their right of dower of the said Elenor as the widow of the said John Goldsberry, deceased, and never set up, or pretended to set up, or hold them in any other way or manner: That partition and division could not be made of said slaves without selling of them, which the compl'ts did not wish to force, and have them separated and scattered abroad; and therefore they did not urge a division of them so long as they considered their right was secure: That the said James has paid to the complainants a part of what is coming to them from him as the administrator of said John Goldsberry, dec'd, of the personal estate and hire of said slaves, for which they executed to him their receipt, which will show the amount he has paid; which receipt he is called on to file. They charge that the defendant, John Shields, is sometimes called by and known by the name of John G. Shields. They further charge that the said def'ts, John Shields and Henry Yater, were both at, and long before the time they took possession of and sold said slaves mentioned in the said original bill, well acquainted with and had full knowledge of the manner in which said James and wife held the possession of said slaves, and that they belonged to the children and heirs aforesaid of the said John Goldsberry, dec'd, and that the said slaves were at the time they took possession of and sold them, worth the sum of four thousand dollars; and that the said John Shields and Henry Yater received that sum for them; and that they each answer separately, on oath, the allegations of this bill, and if they did not, or either of them, sell said slaves for that sum, that they each say what they, or either of them, did sell said slaves for. They charge that the facts charged in this bill are within the knowledge of the said James Shields, John Shields, and Yater. They charge that the children and heirs at law aforesaid of the said John Goldsberry, dec'd, did each work and labor for said James and wife before their marriage, to more than would reasonably satisfy and pay the said James and wife for anything they, or either of them, done or paid out and expended for each of them, for board, clothing, and schooling, or for any other purpose. They charge that said John Shields and Henry Yater did not in good faith purchase said slaves from the said James and wife, but that the sale of them was fraudulent and without consideration, and done to cheat, and defraud, and prevent the said children and heirs of the said John Goldsberry from getting them; they pray as in their original bill, &c.

And afterwards, to wit: at a Court continued and held for the Grayson Circuit, on Tuesday, the 27th day of July, 1841, came the defendants, Isaac Thomas and wife, and filed their answer to the complainant's bill and amended bill.

Which answer is as follows, to wit:—

(*I. Thomas and wife's Answer.*)

The answer of Isaac Thomas and Mary, his wife, to a bill filed by Joseph H. Thomas and wife, and others, against the defendants and others, in the Grayson Circuit Court, who for answer to said bill say: that the said Mary is one of the children and heirs-at-law of the said John Goldsberry, dec'd, and that they are now and have been from the year husband and wife, and lived together in that character from that time until the present, and that they are entitled to distribution of the estate of said John Goldsberry, dec'd, in the hands of the said Shields and wife, as the administratix of said John, dec'd, and pray that a decree may be rendered in their favor for their share, against the said Shields and wife, and the securities in the administration bond, and the said John Shields and Henry Yater. They admit that the children and heirs of the said John Goldsberry, dec'd, are truly set out in said bill; and having fully answered, they pray, &c.

Endorsed: 1841, April 27th. Sworn to in the Clerk's Office, in the usual form (and lodged).

Attest, JACK THOMAS,
C. G. C. C.

And afterwards, to wit: at the same Court, continued and held for the Grayson Circuit, on Wednesday, the 28th day of July, 1841, came the defendant James Burtle, and made oath to and filed his answer to the amended bill.

Which answer to amended bill is as follows, to wit:—

(*J. Burtle's Ans. to Am'd Bill filed.*)

The joint answer of James Burtle, Elizabeth Howell, and Henry

Howell, her husband, Mary Goldsberry, and Jonathan Goldsberry, her husband, Nancy Harwood, Cynthia Merritt, and Jackson Merritt, her husband, Ellen Burtle, Andrew Burtle, and William Burtle, the last four the children of Joseph Burtle, dec'd, who was one of the heirs of Andrew Burtle; the last three named are also infants, by James Burtle, their guardian *ad litem*, the respondents for answer say: that they believe, and so charge the fact, that John Goldsberry, when he died, owed some debts which have been paid, to what amount they know not; that the burial expenses, and expenses attendant on the obtaining the letters of administration, appraising the estate, have been paid; and also managing the estate is worth five per cent., which they say ought to be allowed. These respondents say that the heirs of John Goldsberry has been paid up their full portion of their father's estate in money, which is shown by receipts here filed, marked 1, 2, 3, 4, 5, and also in property, clothing and schooling, boarding, &c. &c., as they believe. They deny that any interest was made out of the money of the estate; that Mat was about forty years old when John Goldsberry died, and Pat about sixteen. These respondents say that they do not admit that the children of John Goldsberry worked enough to pay for the victuals and clothes: they were educated suitable and agreeably to their rank and condition in life, and treated by James Shields and their mother with great kindness and care, went into company and received company at home, as was usual and customary for young people of their standing in society, which was very good, as can be seen from the high and respectable connections they found in marriage.

These respondents suppose it may be true that Pat may have been kept by Mrs. Shields as her dower: of this they are uninformed. As to Mat., he was sold for land, and for his value Shields accounted in money and other things. These respondents are advised to say, that the security of Mrs. Shields, in her administration, is not bound for her dower slaves, after her death, and if that is now the only subject of litigation, this Court has no jurisdiction of this cause, as those negroes have been in the State of Missouri, or at least out of this commonwealth, for more than twenty years.

HARDIN.

Endorsed: 1841, July 28th. Sworn to in the office by James Burtle.

The receipts referred to in the foregoing answer, and made part thereof, are as follows:—

No. 1, September the 22d, 1825:—

(*Receipt No.* 1.)

Rec'd of James Shields, two notes on the United States Branch Bank, payable at New Orleans, one $20, No. 2,609; one $10 note, No. 6,009.

B. GOLDSBERRY.

1521

(*Receipt No.* 2.)

No. 2, is as follows:—

Sept'r the 4th, 1816.

Received of James Shields one hundred and thirty dollars, in part of that is due me.

BENNETT GOLDSBERRY.

(*Receipt No.* 3.)

No. 3 is as follows:—

PIKE COUNTY, MISSOURI, *November 28th*, 1821.

Mr. Isaac Thomas, sir: please pay Joseph H. Thomas eighty-seven dollars thirty-seven cents on my account, of the money you are to collect of Wm. Love, and this shall be good against me for the same.

his
JAMES S. + SHIELDS.
mark.

Attest, B. GOLDSBERRY.

Received $32 50 of the within order, this 3d of October, 1822. October 30th, 1822; received fifty-eight dollars sixty-eight cents, the full amount of the within order.

JOSEPH H. THOMAS.

(*Receipt No.* 4.)

No. 4 is as follows:—

Received of James Shields two hundred and thirteen dollars and twenty cents, it being in part of the estate of John Goldsberry, dec'd, this 20th day of Oct., 1819.

Test, ISAAC THOMAS.

(*Receipt No.* 5.)

No. 5 is as follows, to wit:—

Received of James Shields, one hundred and eighty-five dollars seventy-five cents, it being in part of the estate of John Goldsberry, deceased.

Sep. 12*th*, 1824.

ISAAC THOMAS.

(*Receipt No.* 6.)

Received of James Shields, one hundred and eighty-five dollars seventy-five cents, it being in part of the estate of John Goldsberry, deceased.

Sep. 12*th*, 1824.

JOSEPH THOMAS.

(*Receipt No.* 7.)

Received of James Shields, one hundred and eighty-five dollars seventy-five cents, it being in part of the estate of John Goldsberry, deceased.

Sep. 12th, 1824.

URIAH PRITLE.

And afterwards, to wit: at a Court held for the Grayson Circuit, on Saturday, the 30th day of October, 1841, John Shields' answer having been lodged with the Clerk of this Court, by Francis Payton, Esq., an attorney of this Court, it is ordered that the said answer be filed.

Which answer of John Shields is as follows, to wit:—

(*John Shields' Answer.*)

The separate answer of John Shields to a bill in Chancery, exhibited against him and others in the Grayson Circuit Court by Joseph H. Thomas and others. This respondent, saving now and at all times all benefit of exceptions to the many errors, uncertainties and untruths in said bill contained, for answer thereto, or so much thereof as he is advised it is material for him to answer, says: That in regard to the administration of the estate of the late John Goldsberry, dec'd, and all matters concerning the same, he has no personal knowledge and no information, except what is furnished by the records of the county.

This respondent says he does recollect that in about the year 1835, the said complainants, or some of them, came out to Missouri and demanded some slaves and property, which they alleged they were entitled to from their father's estate; and this respondent believes it is true that said claim was refused; and said complainants, or some of them, instituted a suit in the Circuit Court of Pike County, in Missouri, and were cast in said suit. This respondent has no knowledge of the justice or otherwise of the pretended claim of said complainants; but if he were to judge from the facts of their defects in Missouri, he would suppose that they were entirely unfounded. This respondent, further answering, says: that he did not combine with his father or mother to cheat or defraud the complainants in any manner whatever, as is untruly set forth and charged in said bill, either out of their portion of the slaves or other property, if any they were entitled to; nor did this respondent agree to aid, or did he in any manner aid and assist the said James, or his said mother, to secrete, hide, or run off to parts unknown, the whole or any part of said slaves or other property, as is also falsely alleged and charged in said bill.

This respondent, further answering, says: that it is utterly false, as stated in said bill (that he), John Shields and Henry Yater, with the view, intent, and design to aid and assist the said James and wife to cheat and defraud the children and heirs aforesaid, of the said slaves, and out of the estate of the said John Goldsberry, dec'd, in the hands of the said James and wife, did at the instance of the said James and wife, run said slaves off, and did sell and dispose of the same and receive therefor the sum of $, or that this respondent and the said Yater, or any other person whatever, ever entertained or executed any such design or purpose as is above stated, but the same in all its parts are utterly and absolutely false.

This respondent, further answering, says: That he did not, either in conjunction with Yater, or any other person whatever, further, or otherwise advise, aid or assist the said James and wife to fraudently give, grant, sell, or convey away all or any part of the property belonging to the said James and wife, to the children or friends of the said James and wife, with the view, design, or intent to cheat, defraud, hinder, or delay the said complainants, or any other person whatsoever; but on the contrary, the whole of the statements in said bill containing the last mentioned charge, is utterly false and groundless; the said James and wife it is true of their own free will, without the aid or persuasions of this respondent, made some deeds of land to their children, but this was in compliance with a fair, honest and *bona fide* intention and understanding, made long before this respondent had any knowledge or intimation of the pretended claim of said complainants. This respondent, further answering, says: As to the charge of the insolvency of said James, his father, that it is false; his father has now in possession and under his control the stock and every other thing except the land before mentioned, which he had before the complainants set up their claim, so far as this respondent has ever known or been informed: In regard to this respondent's knowledge of the claim set up in said bill, he has before answered it; but as it is again repeated in more chaste and beautiful style in connection with fraud and cheating, he will again say that he has no knowledge of it, and sincerely believes it is set up without a shadow of justice. This respondent having fully understood from his father, that he had more than paid to all the complainants whatever they may have been entitled to from said estate, as many of the receipts to be filed in this cause will show, and as the recollection of complainants ought to show, as will in their sense of justice to admit, as they are well apprised that in many instances receipts were not taken, this respondent denies all fraud, combination and unfairness, with which he stands charged in said bill, and having fully answered the same, prays to be hence dismissed with his costs, &c.

JOHN SHIELDS.

KENTUCKY,
Breckenridge County, sct:

John Shields personally appeared before the undersigned, a justice of the peace for the county aforesaid, and made oath in due form of law; that the matters and things in the foregoing answer, so far as stated of his own knowledge are true, and those stated as from the information of others, he believes to be true.

Given under my hand, this 1st day of April, A. D. 1841.

PHILIP LIGHTFOOT,
J. P. B. C.

(*Objections to Depositions.*)

And afterwards, to wit: at a Court continued and held for the Grayson Circuit, on Friday, the 29th day of April, 1842, came the parties by their counsel, and the defendants filed objections in writing to complainant's deposition, and moved for a continuance: It is, therefore, ordered that this cause be continued, and by agreement the depositions of Mrs. Nancy Harwood is to be read $400 instead of $800, as to the amount the negro man sold for; the witness being mistaken as to the price for which he was sold; and with this change the objection is made to the reading of said depositions on account of there being no order for taking the same; and by agreement all objections is waived to the reading of all the depositions on both sides leave is given defendants Burtle, to take the depositions of A. Neighbours in this cause.

(*All objections to reading Depositions waived.*)

The objections to the reading of the depositions are as follows, to wit:—

(*Objections to Depositions.*)

THOMAS, &c.
vs.
BURTLE, &c.

The defendants in this cause each severally object to all the depositions, and each of the depositions, taken by the complainants, and assign the following causes: there was no notice as to each of them, of the time and place of taking said depositions. The depositions of Nancy Harwood is objected on this further ground: she was a party to the suit, and there was no order of Court to take her deposition.

HARDIN.

And afterwards, to wit: on the 15th day of June, 1842, the following chancery subpœna, issued against Josph Burtle's heirs, to wit:—

(*Chancery Subpœna.*)

The Commonwealth of Kentucky, to the Sheriff of Hardin County, greeting: We command you to summon Cinthian Merritt, Jackson Merritt, her husband, Ellen Burtle, Andrew Burtle, and

William Burtle, heirs of Joseph Burtle, deceased, to appear before the Judge of our Grayson Circuit Court, at the Court-house, in Litchfield, on the 1st day of our next July term, to answer a bill and amended bills, in Chancery, exhibited in our said Court against them and others, by Joseph H. Thomas and others: and have then and there this writ. Witness Jack Thomas, Clerk of our said Court, at the Court-house, aforesaid, this 15th day of June, 1842, in the 51st year of the Commonwealth.

JACK THOMAS,
C. G. C. C.

Endorsed, July the 19th, 1842. Executed on Jackson Merritt, Cintha Merritt, and Andrew Burtle: the remainder of the defendants not found.

JOSEPH S. RAINE & CO., for J. FIFE,
S. H. C.

And afterwards, to wit: on the 20th day of September, 1842, the following Chancery Subpœna issued, to wit:—

(*Chancery Sup.*)

The Commonwealth of Kentucky, to the Sheriff of Hardin County, greeting: We command you to summon Cinthian Merritt, Jackson Merritt, her husband, Ellen Burtle, Andrew Burtle, and William Burtle, heirs of Joseph Burtle, deceased, to appear before the Judge of our Grayson Circuit Court, at the Court-house, in Litchfield, on the first day of our next October term, to answer a bill and amended bills, in Chancery, exhibited in our said Court against them and others, by Joseph H. Thomas and others, and have then there this writ. Witness Jack Thomas, Clerk of our said Court, at the Court-house aforesaid, this 20th day of September, 1842, and in the 51st year of the Commonwealth.

JACK THOMAS,
C. G. C. C.

Upon which is the following endorsement:—

This is only to be executed on Ellen Burtle and William Burtle, this 20th day of September, 1842.

Attest, JACK THOMAS,
C. G. C. C.

Upon which the Sheriff made the following return:—

Executed, J. S. RAINE, for J. FIFE,
S. H. C.

October 17, 1842.

And afterwards, to wit: at a Court continued and held for the Grayson Circuit, on Wednesday, the 26th day of October, 1842.

(*Guardian for J. Burtle's Heirs Appointed.*)

On motion of the defendants it is ordered that John L. Helm be appointed guardian *ad litem* for the defendants, William Burtle, Andrew Burtle, and Ellen Merritt, infant heirs of Joseph Burtle, deceased.

And afterwards, to wit: at the same Court, continued and held for the Grayson Circuit, on Thursday, the 27th day of October, 1842.

(*Guardian's Ans. filed.*)

Came John L. Helm, guardian *ad litem* for Joseph Burtle's infant heirs, and filed his answer to the complainant's bill and amended bills. Which answer of John L. Helms, guardian *ad litem* for Jos. Burtle's infant heirs is as follows, to wit:—

(*Jos. Burtle's Heirs' Ans. filed.*)

The answer of John L. Helm, Guardian *ad litem*, appointed by the Grayson Circuit Court to answer for Ellen Marrott, late Ellen Burtle, Andrew Burtle and Wm. Burtle, infant heirs of Joseph Burtle, deceased, in the suit of Goldsberry's heirs, against Shields, &c.

This respondent knows nothing of the matter and things in dispute. He refers to the answer of James Burtle, filed in this cause, as the best history of the case; he protests against any decree going against his wards; he denies anything passed by them by descent or to their father, or that he or they are in anywise responsible to answer in said suit for any money; he requires proof of each and every fact necessary to be proved to insure ample justice done to them; and prays for costs, &c.

ELLEN MERROTT,
ANDREW BURTLE,
WILLIAM BURTLE.

By JOHN L. HELM,
Gu'd ad litem.

(*Submitted.*)

And afterwards, to wit: at a Court continued and held for the Grayson Circuit, on Thursday, the 27th day of April, 1843, "came the parties, by their attorneys, and they submitted this cause to the Court, and agree that the Judge take the papers, and that the decree which the Judge makes shall be entered at the next term of this Court, as the decree of the Court, in the same manner as if the Judge was personally present.

(*Auditor appointed.*)

And afterwards, to wit: at a Court continued and held for the Grayson Circuit, on Wednesday, the 25th day of October, 1843—

The Court being now advised of and concerning the premises, it is ordered that William L. Conklin be, and he is hereby appointed an auditor to settle the accounts of the administration of John Goldsberry's personal estate, and that he examine the parties on oath, and such witnesses as they may provide, and commit to writing the substance of their statement; that he endeavor, by the proof already taken, and such further proof as may be adduced, further to ascertain—

1*st*. What portion of the assets of John Goldsberry's estate came to the hands of James Shields during his coverture with the administratrix Elenor.

2*d*. The time of the birth of the slaves, Jack and Peggy, and what it was worth per year to support and clothe each one until worth their victuals and clothes.

3*d*. What the service of each of them was worth per year until the death of Peggy—considering the incumbrance from her children—stating when that occurred, and what Jack's service were worth from that time until he was sold, and what he was sold for, and what his value at that time.

4*th*. That he also ascertain the number and names of Peggy's children, when each was born, what it was worth per year to clothe and support them until they were, by their services, worth their victuals and clothes; and if any of them died, when did such death occur; and what the service of each were worth per year, stating each year separately; and what each was worth when sold by Shields, if they were so sold.

5*th*. That he ascertain at what time James Shields got possession of Mat and Patty; what the services of each was worth until he sold Mat; what he sold Mat for, and what Patty's services were worth from that time forward.

6*th*. That he ascertain the time of the birth of each of John Goldsberry's children, including those who are complainants as well as those who are defendants; and what it was worth to board, educate, and clothe each one, stating each separately, as long as such child lived with Shields; and what any service rendered by either for Shields and wife during such time was worth; also what advancements were made by Shields or wife, to either in money or property, and when made; and that he make report to this Court.

(*Additional Report filed.*)

And afterwards, to wit: at a Court held for the Grayson Circuit on Monday, the 22d day of April, 1844, came William L. Conklin, auditor herein, and made and filed his report.

Which Auditor's report is as follows, to wit:—

(*Auditor's Report.*)

JOSEPH H. THOMAS AND WIFE, Complainants,
against
JAMES SHIELDS and others, Defendants.
} In Chancery.

Agreeable to an inventory order of the Grayson Circuit Court, made at the October term, 1843, in the above case, appointing me an auditor to settle the accounts of the administration of the personal estate of John Goldsberry, deceased, and also to ascertain other facts in said order mentioned. I do make the following report, to wit:—

(1st.) I find the amount contained in the inventory of the appraisement of the personal property of John Goldsberry, deceased, came into the hands of James Shields, who intermarried with the administratrix, Elenor, in January, 1799; I find the assets came into his hands at the marriage, which amounted to the sum of 383*l.* 15 *shillings* 1,279 16⅔

(2.) I find the slave Jack was born in October, 1802, and it was worth per year $15 for seven years to support, and clothe him until his services were worth his victuals and clothes 105 00

I find Peggy was born in August, 1804, and that it was worth $15 per year for seven years to support and clothe her until her services were worth her victuals and clothes 105 00

(3.) I find Jack's services, from the age of seven until he was ten years old worth his victuals and clothes, from the age of ten until he was seventeen years old the time he left Kentucky, his services were worth $15 per year, upon an average amounting to 105 00

Jack's services from the time he left Kentucky, which was in 1819, until the death of Peggy, which occurred in 1832, were worth per year, upon an average, for thirteen years, $80, amounting to . . . 1060 00

I find Peggy's services, from the age of seven until she was ten years old, to be worth her victuals and clothes; for five years up to the time she was removed from Kentucky, which was in 1819, her services were worth, upon an average, $9 per year, amounting to 45 00

I find Peggy's services from 1819, the time she left Kentucky, until her death, which occurred in 1832 (considering the incumbrance of her children), were worth nothing, without such incumbrance her services were worth, upon an average, per year for thirteen years $40.

I find Jack's services were worth $80 per year from the time of Peggy's death, which was in March, 1832, until he was sold, which was in September, 1835, which would be three years and six months, amounting to the sum of 280 00

I find no proof of what he was sold for; his value at the time he was sold was 800 00

(4.) I find the number of Peggy's children were five, and that their names were as follows, to wit: Bet, Cherry, Lize, Mary, and Ben.

I find they were born as follows, to wit:—

Bet was born in the year 1822.
Cherry was born in the year 1824.
Lize was born in the year 1826.
Mary was born in the year 1828.
Ben was born in the year 1832.

I find the raising of Peggy's children, with the service of the mother, worth nothing; without her service it was worth, until they by their services were worth their victuals and clothes, each $100 . . . . . . 500 00

I find that none of Peggy's children died up to the time they were sold or missing.

I find no satisfactory proof of what the services rendered by any Peggy's children were worth. I find Peggy's children were worth at the time they were sold (Sept. 1835), as follows, to wit:—

Bet was worth	500 00
Cherry was worth	400 00
Lize was worth	300 00
Mary was worth	250 00
Ben was worth	250 00

(5.) I find that James Shields got possession of Mat's services per year, until sold by Shields in 1804, for five years, were worth $70 . . . . 350 00

I find Patty's services per year, for five years up to the time Mat was sold, were worth $25, amounting to the sum of 125 00

I find Shields sold Mat for 400 00

I find Patty's services from the time Mat was sold (in 1804), until she was removed from the State of Kentucky (in 1819), were worth per year upon an average for the fifteen years $25, amounting to the sum of . 375 00

I find Patty's services, from 1819 until 1828, were worth per year upon an average $15, amounting to . 135 00

From 1828, forward, I find no proof relative to Patty's service.

(6.) I find the birth of John Goldsberry's children, including those who are complainants as well as those who are defendants, was as follows, to wit:—

Bennett Goldsberry was born the 26th August, 1789.

Nancy Goldsberry, now Nancy Pritle, was born the 6th Feb'y, 1791.

Polly Goldsberry, now Polly Thomas, was born 1st January, 1794.

Betsy Goldsberry, now Betsey Thomas, was born 9th February, 1797.

I find no proof of establishing the amount it was worth to board, clothe, and educate each one of John Goldsberry's children during the time each one lived with Shields.

I find that Bennett's services for Shields and wife, during the time he lived with Shields, were worth his board, education, and clothing.

I find Nancy's services for Shields and wife were worth her board, education, and clothing.

I find Polly's services for Shields and wife, during the time she lived with Shields, were worth her board, clothing, and education.

I find Betsey's services for Shields and wife, during the time she lived with Shields, were worth her board, education, and clothing.

I find no advancement by Shields or wife to Bennett Goldsberry, in consideration of his part of John Goldsberry's estate, with the exception of the amount paid by James Shields to Abraham Neighbours for the boarding and schooling of Bennett Goldsberry, which amount was 20 00

I find, per Receipt No. 5, filed in the papers, that Uriah Pritle, who intermarried with Nancy Goldsberry, received from James Shields, on the 12th September, 1824, the sum of 185 75

I find per Receipt No. 5, which receipt is filed in the papers of this suit, that Isaac Thomas, who intermarried with Polly Goldsberry, received, on the 12th September, 1824, the sum of 185 75

I find also, Receipt No. 5, that Joseph H. Thomas, who intermarried with Betsey Goldsberry, received from James Shields, on the 12th Septembr, 1824, the sum of 185 75

The proof taken by me in writing, on the 19th and 20th of February, 1844, is herewith returned and marked W. L. C., and made part hereof; all of which is respectfully submitted to the Grayson Circuit Court, April 4th, 1844.

W. L. CONKLIN,
Auditor.

(*Proof taken by Auditor.*)

The evidence taken by the Auditor and referred to and made part of his report, is as follows, to wit:—

February 19*th*, 1844.

(1.) *Nancy Harwood*, introduced by complainants and defendants, sworn and examined by me, states that the whole amount of the assets of John Goldsberry's estate, containing in inventory, came into the hands of James Shields at the time of his marriage with the administratrix, Elenor, which was in the month of January, 1799.

Jonathan Goldsberry, introduced by defendant Isaac Thomas, sworn and examined by me, states: that all the assets of John Goldsberry's estate came into the possession of James Shields during his coverture with the administratrix Elenor.

Nancy Harwood, introduced by compl't Joseph H. Thomas, and defendant Isaac Thomas, sworn and examined by me, states: that Jack was born in the month of October, 1802, and that Peggy was born in the month of August, 1804.

Nancy Pritle, introduced by complainant Joseph H. Thomas, and def't Isaac Thomas, sworn and examined by me, states: that Jack was born the 14th October, 1802, and that Peggy was born the 15 Aug't, 1804.

John Cunningham, *William Cunningham*, *Sr.*, and *Owen Willis*, introduced by compl't, Joseph H. Thomas, and def'ts Isaac Thomas and James Burtle, Sr., sworn and examined by me, state: that it was worth $15 00 per year each, to support and clothe Jack and Peggy until they by their services were worth their victuals and clothes, which would be at about the age of seven years.

(5.) *Nancy Harwood*, introduced by def't, Isaac Thomas, sworn and examined by me, states: that James Shields got possession of Patty and Mat in January, 1799, at the time of said Shields's intermarriage with the administratrix, Elenor.

Nancy Pritle, introduced by def't Isaac Thomas, sworn and examined by me, states: that James Shields got possession of Mat and Patty at the time of his intermarriage with the adm'x, Elenor.

(6.) *Nancy Harwood*, introduced by compl't and def't, Joseph H. Thomas and Isaac Thomas, sworn and examined by me, state: that Bennett Goldsberry was born August 26th, 1789; that Nancy Goldsberry was born February 6th, 1791; that Polly Goldsberry was born January 1st, 1794; that Betsey Goldsberry was born February 9th, 1797.

Nancy Harwood states that Bennett Goldsberry was about 10 years old when James Shields married the widow Goldsberry; that Bennett lived with said Shields about five years, exclusive of the time he lived with Abraham Neighbors, and that she would think his boarding was worth about seventy-five cents a week, and his clothing about fifteen dollars a year, and that his total schooling during the five years he lived with Shields was 3 months; that she is able to value his services, but thinks they were worth his boarding, clothing, and what schooling he got.

February 20*th*, 1844.

Nancy Harwood, introduced by compl't Joseph H. Thomas, and def't Isaac Thomas, sworn and examined by me, states: that she was familiar in James Shields's family, and was well acquainted with Nancy Goldsberry; that Nancy was eight years old when her mother married James Shields, though she is not able to say what it was worth to support, clothe, and educate her, but thinks her services in Shields's family were certainly worth her victuals, clothes, and 9 months schooling, which was all the schooling she got; she was a very stout girl; was grown at 13 years old; she assisted her mother in the raising of her two younger sisters; commenced weaving for Shields and family at the age of eleven years old. Nancy assisted her mother in raising some young negroes, also in raising four of James Shields's children.

Nancy Harwood states that Polly Goldsberry was about 5 years old when James Shields intermarried with adm'x Elenor, and that Polly lived with Shields and wife until she was twenty-one years old; that she went to school more than the other children; that she got about one year's schooling. What her board, clothing, and schooling were worth, I am not able to state, but think her services in Shields's family were at least worth her board, clothing, and schooling, because she worked in the family of Shields from the time she was five years old until she was twenty-one years old, except about one year, in which she was going to school; she, with the other girls, made a great deal of homespun cloth, and sold for things for the use of the family —which the girls necessarily had to do, on account of Mr. Shields being a very dissipated man, and a man who used very little exertion in trying to provide for his family; and in fact, through his dissipation and bad management, spent nearly everything that came to his hands.

Nancy Harwood states that Betsey Goldsberry was about 2 years old when James Shields intermarried with the adm'x Elenor; as to the amount of schooling she got by Shields, I am not able to say, though I think she got but little; she had a better education than either of her sisters, but she obtained most of her education after she was eighteen years old. She went to school one 5 months session to Loretto monastery, Hardin's Creek, Washington County, Ky., and one five months session to Nazarath Monastery, in Nelson County, Ky., both of which Betsey paid for herself; she worked in Shields's family as the other girls did; I think her work and labor in Shields's family was worth her boarding, clothing, and what schooling was given her by Shields.

Owen Willis, introduced by def't Isaac Thomas, sworn and examined, states: that he was well acquainted with James Shields, and that said Shields was a very dissipated man, and a very bad manager; also that he was well acquainted with Polly Goldsberry, and thinks her work and labor in Shields's family was well worth her board, clothing, and schooling.

Nancy Pritle, introduced by Isaac Thomas, sworn by me, and examined by Isaac Thomas, states: that at the time Isaac Thomas signed a receipt to James Shields for $185 75, which was September the 12th, 1824, she heard said Thomas say that he thought he had receipted for all he had gotten from Shields in the way of his portion of the estate of John Goldsberry, and that James Shields said, that if there was another receipt he would destroy it, and that he wanted all the receipts on the same sheet of paper; and the last receipt contained the full amount he had paid Isaac Thomas.

Isaac Thomas, sworn and examined by me, states: that the receipt No. 5, filed in the papers, is the only receipt that should be against me; notwithstanding, there is a receipt, No. 4, against him in his handwriting, bearing date October the 20th, 1819, for $213 20; that said receipt for $213 20 should have been for $113 20, and that James Shields said, when he gave the receipt No. 5 for $185 75 to said Shields, he, the said Shields, if there was another receipt, would destroy it, and that the receipt No. 5, for $185 75 was for the full amount he had paid Isaac Thomas of his portion of the estate of John Goldsberry, deceased.

Isaac Thomas, sworn and examined by me: that the order and receipt No. 3, filed in the papers, was not given by Joseph H. Thomas in consideration of any advancements of John Goldsberry estate made by Shields and wife; that the order was given to Joseph H. Thomas, on him, Isaac Thomas, for and in consideration of a side-saddle, and a parcel of leather; which said Shields and wife stated to him was the fact, and that he paid Joseph H. Thomas the amount of said order and receipt out of money which he had collected from William Love and others, as attorney in fact of James Shields.

Isaac Thomas (sworn and examined) states that of receipts No. 1 and 2, against Bennet Goldsberry, I know nothing, but that I heard James Shields say, on the 12th day of September, 1824, that he never had paid Bennett Goldsberry any part of his estate; and also states that the receipt No. 2, from the form of the letters, and from the way his name is spelled, I do not believe to be in the handwriting of Bennett Goldsberry.

Nancy Pritle (sworn by me and examined by Isaac Thomas) states that she was at James Shields', in the State of Missouri, in the fall of 1823; and that she, whilst there, heard Shields and wife both say, that they had not paid Bennet Goldsberry any part of his estate; and that she also heard them make the same statement on the 12th September, 1824, at the time Isaac Thomas, Joseph H. Thomas and Uriah Pritle receipted to James Shields.

Owen Willis (sworn and examined by me) states that he was in the State of Missouri between nine and ten years after James

Shields left this State; was at the house of Mr. Shields; saw Patty, and would judge her hire per year upon an average from the time she left this State until he saw her, to be worth about $15; the above and foregoing proof was taken before me on oath, on the 19th and 20th day of February, 1844, in a suit in Chancery, in the Grayson Circuit Court, wherein John Goldsberry's heirs are complainants, and James Shields and others are defendants.

WILLIAM L. CONKLIN,
Aud'r.

And afterwards, to wit: at a Court held for the Grayson Circuit, on Friday, the 26th day of April, 1844, "came the defendants and filed exceptions to the Auditor's report, which exceptions are as follows, to wit:

(*Exceptions to Auditor's Report.*)

THOMAS, &c.
vs.
BURTLE, &c.

The defendants object to the report of the Commissioner.

1. The Auditor does not allow Mrs. Shields after she administered on the estate of John Goldsberry any compensation for the boarding of the children of John Goldsberry, until her intermarriage with Shields.

2. There is nothing allowed for boarding of the children, until they were able to earn their victuals and clothes.

3. The Commissioner has disallowed part of the receipts called for by the amended bill, and filed with the answers, and admitted on the trial, it was evidently the other advancements alluded to in the interlocutory decree.

4. The Commissioner has allowed nothing for the horses, saddles, &c., advanced to girls in Neighbour's deposition.

5. The Commissioner erred in permitting the heirs of John Goldsberry to swear for themselves, when not called on by the opposite party; such power would be against law, and is not the intention of the decree.

6. The Commissioner should have allowed the administratrix for the board of the children when at school, and for tuition fees, &c.

7. The Commissioner should have allowed the administratrix for funeral expenses, and the expenses of administration, and also an allowance or percentage for administering.

8. The estimate for raising the young negroes is too low, and for negro hire is too high.

HARDIN.

9. No notice was served on the heirs and distributees of Andrew Burtle of the time and place of meeting of the Auditor and Commissioner.

HARDIN.

(*Submitted.*)

And afterwards, to wit: at a Court continued and held for the Grayson Circuit, at the Court-house in Litchfield, on Saturday, the 27th day of April, 1844, came the parties by their attorneys, and submitted this cause to the Court.

And now at this day, to wit: at a Court continued and held for the Grayson Circuit, at the Court-house in Litchfield, on Thursday, the 31st day of October, 1844.

(*Decree.*)

JOSEPH H. THOMAS and ELIZABETH, his wife, &c., Complainants,
against
ISAAC THOMAS and others, Defendants.
In Chancery.

The cause having been submitted at a former term, came on to be heard upon the bills, answers, exhibits, depositions, auditor's report, filed and other proof taken by him, and upon due consideration had thereon by the Court, it is decreed and ordered that the defendants, James Burtle, James Shields, John, *alias* John G. Shields, and Henry Yater, pay to the complainants, Joseph H. Thomas and Elizabeth Thomas, his wife, the sum of seven hundred and thirty-five dollars and seventy-three cents.

That they pay to the complainants, Uriah Pritle and Nancy, his wife, the sum of seven hundred and thirty-five dollars and seventy-three cents.

That they pay to the co-defendants, Isaac Thomas and Polly, his wife, the sum of two hundred and two dollars and seventy-four cents.

That they pay to their co-defendants, Elizabeth Goldsberry, John Goldsberry, and Ann Goldsberry (infant children and heirs of Bennett Goldsberry, deceased) the sum of eleven hundred and twenty-four dollars twenty-eight cents.

It is further decreed and ordered that they also pay to the complainants their costs herein expended; and it is further decreed and ordered that so far as the decree is to operate against the defendant, James Burtle, the same is to be made and levied of the assets in the hands of the said James Burtle, as executor of the last will and testament of Andrew Burtle, deceased, in his hands unadministered. In rendering the decree, the Court disregarded such of the proof in this cause as was deemed inadmissible.

(*Def't filed Exceptions.*)

The defendants filed a bill of exceptions, which was signed, sealed, and made part of the record, and marked (A).

Ordered that William L. Conklin, Auditor herein, be allowed the sum of twenty-five dollars for his services as Auditor, to be paid by the complainants, and taxes in the bill of costs against defendants.

Which petition and bill of exceptions filed by defendants, James Burtle, are as follows, to wit:—

(*Defendant's Exceptions.*)

To the Honorable the Judges of the Grayson Circuit Court, your petitioner, James Burtle, would most respectfully state that some years ago Joseph Thomas and wife, &c., exhibited their bill in the Grayson Circuit Court against your petitioner and others; that in said bill it is alleged that your petitioner is the executor of the estate of Andrew Burtle, and your petitioner, from the circumstances hereafter stated, supposed he was, and in his answer to said bill he admitted that he was executor; your petitioner has ascertained this morning that he is only administrator with the will annexed, in conjunction with his mother, Susanna Burtle; a copy of the will, and order granting letters of administration, is here shown, marked (W), and made part hereof. Your petitioner would state that his father died in 1816, and, about one or two years thereafter, his mother, who had the property as administratrix and devisee, came to an agreement with the heirs, who were all of age, to take a child's part of the estate; this respondent, in the division, got only about $400, and no more, which division took place between twenty and thirty years ago. This respondent and petitioner says that he is sixty-five years old, hard of hearing, and never had any law business to any extent, and knows not how to conduct and manage a suit; he says that when his lawyer drew his answer he told him he was executor, for he supposed he was, and never knew any better until he was informed otherwise. He prays your Honor to open the cause and permit this petition to be filed as an amended answer and cross-bill against the heirs and distributees of his father, whose names are truly set out in the bill and amended bill.

JAMES BURTLE.

Endorsed: 1844, October 31st. Sworn to in open Court.

Att., E. THOMAS, *D. C.*

The defendant, James Burtle, moved the Court to file the within petition, which the Court refused to permit; to which opinion and refusal the said Burtle excepts, &c. The defendant, Burtle, then moved to file Exhibit (W), referred to in said petition, which the Court refused, and to which the said Burtle excepts. The cause in petition referred to had been submitted at a former term, the decree prepared and about to be handed to the Clerk of the Court to be entered as the decree of the Court, when, on motion of defendant's counsel, the Court omitted to have the decree entered until the defendant could offer his said petition, which was overruled and the decree entered.

RICHARD A. BUCKNER. [SEAL.]

The exhibit referred to and made part thereof, and marked (W), is as follows, to wit:—

(*Will of A. Burtle.*)

In the name of God, amen, &c.: I, Andrew Burtle, of the county of Grayson and State of Kentucky, being sick and weak in body, but, thanks be to God, of perfect mind and memory, do constitute this my last will and testament, and allow it to be received by all as such. In the first place, it is my desire and request that my body be interred in a decent, Christian manner, and after my just debts are paid, I give and dispose of my estate in the following manner, viz:

1*st*. I allow my wife Susanna to continue in possession of the plantation where I reside, together with my slaves and other personal property, during her life or widowhood; after her decease, I give unto my son Joseph the plantation where I reside, and allow an equal division of my slaves and other personal property amongst the whole of my children, except negro James and negro Joseph; negro James I allow to my son James, and the other, viz: Joseph, I give to my son Joseph, and allow it to be considered as part of their share, and to be made equal in the division of the other property; and I do hereby disallow and declare void all former wills in my name, ratifying and confirming this my last will and testament.

In witness whereof, I have hereunto set my hand and seal this eighth day of March, one thousand eight hundred and sixteen, &c.

his
ANDREW × BURTLE. [SEAL.]
mark.

Test,
WILLIAM EWING,
JOHN KELLY.

At a Court begun and held for Grayson County, at the Courthouse in Litchfield, on the 22d day of May, 1816, this instrument of writing was proven, by the oath of William Ewing and John Kelly, to the last will and testament of Andrew Burtle, deceased; and on the motion of Susannah Burtle and James Burtle, who made oath and entered into bonds, agreeably to law, the administration of said Andrew Burtle's estate, with the will annexed, was granted them, and that I have truly recorded the same in my office.

A copy.

Attest, JACK THOMAS,
C. G. C. C.

EDWIN THOMAS,
D. C. G. C.

The order granting administration is as follows, to wit:—

STATE OF KENTUCKY, GRAYSON, COUNTY, SCT.

May Court, 1816:

An instrument of writing purporting to be the last will and testament of Andrew Burtle, deceased, was proven by the oath of William Ewing and John Kelly to be the last will and testament of Andrew Burtle, and which was sworn to by Susannah Burtle and James Burtle, and who took the oath required by law. The administration of said Andrew Burtle's estate, with the will annexed, is granted said Susannah Burtle and James Burtle; whereupon they entered into and acknowledged their bond in the penalty of $3,000, conditioned as the law directs, with John Kelly and James Higdon, their securities.

A copy. Test,

EDWIN THOMAS,
Deputy Clerk Grayson County.

(*Auditor's Affidavit.*)

The following affidavit of W. L. Conklin, the Auditor appointed by the Grayson Circuit Court in the case of Joseph H. Thomas and wife against James Shields and others, this affidavit states that he wrote a note to James Burtle, informing him that he had appointed the day which is mentioned in the proof, which is filed with the auditor's report, to commence taking proof in the above case, which note he sent to James Burtle, by his son, about ten or twelve days before the day he commenced taking the proof, and that some five days after he wrote to Mr. Burtle, he himself saw James Burtle and informed him of the fact. This affiant at that time asked James Burtle if he would have an opportunity of sending word to the heirs of Joseph Burtle. Mr. Burtle said that he did not know that he would, and he did not know that it would be worth while to have them present; he said that he expected that there could be but little proof than had been taken; this affiant, some two or three weeks before the days appointed to commence the proof, informed Isaac Thomas of the appointed time, and requested him to make it known to the parties the day this affiant commenced taking the proof; which day and date will appear from the report: the following persons (being present) were present: Isaac Thomas, Joseph H. Thomas, James Burtle, Nancy Harwood, Jonathan Goldsberry, Uriah Pritle, and Nancy Pritle, his wife, who were all in attendance during the time this affiant was taking the proof in said cause.

W. L. CONKLIN.

Endorsed: 1844, April 27th. Sworn to in open Court.
Att. JACK THOMAS,
C. G. C.

The following facts were filed by the parties, to wit:—

(*Facts filed by Complainant.*)

We agree, as a fact in the cause of Goldsberry's heirs against Shields and Burtle, &c., that Isaac Thomas and Joseph Thomas knew the facts of Shields ruining the property of the estate in contest; and said Thomas's went part of the way with Shields when he moved to Missouri with the property.

ISAAC THOMAS.
JOSEPH H. THOMAS.

The depositions taken on the part of the complainants are as follows, to wit:—

(*Compl'ts Deposition. Nancy Harwood's Deposition.*)

The deposition of Miss Nancy Harwood, taken at the law office of Jefferson Jennings, in Hardinsburg, on the 16th day of April, 1842, to be read as evidence in a suit in Chancery depending in the Grayson Circuit Court, wherein Joseph H. Thomas and others are complainants, and James Shields, &c. are defendants, being of lawful age, and duly sworn, deposeth and saith:—

Question by Compl'ts. Were you acquainted with James Shields, the defendant, who married the widow of John Goldsberry, dec'd, while he lived in Grayson?

Answer. I was; they married in Nelson County, in 1799, and removed to Washington County, and lived there 2 or 3 years, and then moved to Grayson, and resided there until the fall of 1819, when they removed to Missouri. I was intimate in the family nearly all the time.

By same. Do you know in what manner, and at what expense the def't Shields raised or educated the children of John Goldsberry, dec'd? If so, please state all you know about it.

Ans. The girls were raised in the common country style, and their education was but limited, and a good part of that was paid for by their labor. I recollect they went a while to a Mr. Hall, and I believe he was paid in work, by the girls and their mother; as to their dressing, they got none but homespun, or such as was bought with their work. Bennett was pretty well advanced with his education before his mother married. He and myself went to school together at Bardstown. Elizabeth Thomas went to the nunnery after she was grown, and paid for it herself. I believe the girls fully paid, by their labor, for all they got of Mr. Shields in the way of clothing and education.

By same. Were you acquainted with the slaves of John Goldsberry, dec'd, while James Shields had possession of them in this country?

Ans. I was; there was a likely man, named Matthew, that Shields sold to a man by the name of Campbell, for about $800, as well as

The order granting administration is as follows, to wit:—

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May Court, 1816:

An instrument of writing purporting to be the last will and testament of Andrew Burtle, deceased, was proven by the oath of William Ewing and John Kelly to be the last will and testament of Andrew Burtle, and which was sworn to by Susannah Burtle and James Burtle, and who took the oath required by law. The administration of said Andrew Burtle's estate, with the will annexed, is granted said Susannah Burtle and James Burtle; whereupon they entered into and acknowledged their bond in the penalty of $3,000, conditioned as the law directs, with John Kelly and James Higdon, their securities.

A copy. Test,

EDWIN THOMAS,
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The following affidavit of W. L. Conklin, the Auditor appointed by the Grayson Circuit Court in the case of Joseph H. Thomas and wife against James Shields and others, this affidavit states that he wrote a note to James Burtle, informing him that he had appointed the day which is mentioned in the proof, which is filed with the auditor's report, to commence taking proof in the above case, which note he sent to James Burtle, by his son, about ten or twelve days before the day he commenced taking the proof, and that some five days after he wrote to Mr. Burtle, he himself saw James Burtle and informed him of the fact. This affiant at that time asked James Burtle if he would have an opportunity of sending word to the heirs of Joseph Burtle. Mr. Burtle said that he did not know that he would, and he did not know that it would be worth while to have them present; he said that he expected that there could be but little proof than had been taken; this affiant, some two or three weeks before the days appointed to commence the proof, informed Isaac Thomas of the appointed time, and requested him to make it known to the parties the day this affiant commenced taking the proof; which day and date will appear from the report: the following persons (being present) were present: Isaac Thomas, Joseph H. Thomas, James Burtle, Nancy Harwood, Jonathan Goldsberry, Uriah Pritle, and Nancy Pritle, his wife, who were all in attendance during the time this affiant was taking the proof in said cause.

W. L. CONKLIN.

Endorsed: 1844, April 27th. Sworn to in open Court.
Att. JACK THOMAS,
C. G. C.

The following facts were filed by the parties, to wit:—

(*Facts filed by Complainant.*)

We agree, as a fact in the cause of Goldsberry's heirs against Shields and Burtle, &c., that Isaac Thomas and Joseph Thomas knew the facts of Shields ruining the property of the estate in contest; and said Thomas's went part of the way with Shields when he moved to Missouri with the property.

ISAAC THOMAS.
JOSEPH H. THOMAS.

The depositions taken on the part of the complainants are as follows, to wit:—

(*Compl'ts Deposition. Nancy Harwood's Deposition.*)

The deposition of Miss Nancy Harwood, taken at the law office of Jefferson Jennings, in Hardinsburg, on the 16th day of April, 1842, to be read as evidence in a suit in Chancery depending in the Grayson Circuit Court, wherein Joseph H. Thomas and others are complainants, and James Shields, &c. are defendants, being of lawful age, and duly sworn, deposeth and saith:—

Question by Compl'ts. Were you acquainted with James Shields, the defendant, who married the widow of John Goldsberry, dec'd, while he lived in Grayson?

Answer. I was; they married in Nelson County, in 1799, and removed to Washington County, and lived there 2 or 3 years, and then moved to Grayson, and resided there until the fall of 1819, when they removed to Missouri. I was intimate in the family nearly all the time.

By same. Do you know in what manner, and at what expense the def't Shields raised or educated the children of John Goldsberry, dec'd? If so, please state all you know about it.

Ans. The girls were raised in the common country style, and their education was but limited, and a good part of that was paid for by their labor. I recollect they went a while to a Mr. Hall, and I believe he was paid in work, by the girls and their mother; as to their dressing, they got none but homespun, or such as was bought with their work. Bennett was pretty well advanced with his education before his mother married. He and myself went to school together at Bardstown. Elizabeth Thomas went to the nunnery after she was grown, and paid for it herself. I believe the girls fully paid, by their labor, for all they got of Mr. Shields in the way of clothing and education.

By same. Were you acquainted with the slaves of John Goldsberry, dec'd, while James Shields had possession of them in this country?

Ans. I was; there was a likely man, named Matthew, that Shields sold to a man by the name of Campbell, for about $800, as well as

I recollect, in 1805 or 1806. When he moved to M'd, there was a woman named Patty, and 2 children, Jack, aged about 17 years, and a girl named Margaret, about 15 years old. The old woman was a stout, hearty woman, worth about $50 a-year; Jack, towards the last, was worth about $65 or $70, and was worth, from the time he was 8 years old till he left the country, on an average, about $30 a-year; the girl Peggy, for the same time, would have been worth about $20 per year; and further saith not.

NANCY HARWOOD.

BRECKENRIDGE COUNTY, SCT:

The foregoing deposition of Nancy Harwood was duly taken, subscribed and sworn to before me, a Justice of the Peace for said county, at the time and place first named in the caption.

Given under my hand, this 16th of April, 1842.

PHILIP LIGHTFOOT,
J. P. B. C.

Endorsed: 1842, April 25th, rec'd enclosed under seal.

Attest, JACK THOMAS,
Clerk.

Depositions of witnesses produced, sworn and examined on the of March, in the year of our Lord eighteen hundred and forty-one, at the house of William English, in Frankfort, Pike County, in the State of Missouri, before one Timothy Ford, a Justice of the Peace within and for the County aforesaid, in a certain cause now depending in Chancery in the Grayson Circuit Court, in the State of Kentucky, wherein Joseph H. Thomas and others are complainants, and James Shields and others defendants.

(*Eli Jackson's Deposition.*)

Eli Jackson being introduced, sworn and examined, deposeth and saith: That about twenty-one years ago James Shields had in his possession two certain negroes, subsequent to that time, the negro woman Peg and Jack. That Peg had five children, to wit: Bet, Lize, Cherry, Mary and Ben, which were likewise in said Shields' possession; that said negroes remained in possession of said Shields, to the best of his recollection, until last September, five years ago; that they then ceased to be in his possession, and that he has never seen them at said Shields' house since that time.

Question by Plaintiff's Atty. What was the value of those negroes at the time they ceased to be in said Shields' possession?

Answer. They were likely negroes. Jack would have sold for eight or nine hundred dollars; he was a large, likely negro, and negroes were then selling high. Peg was dead before that time. Three of the young negroes (children of Peg) were worth about four hundred dollars a-piece; the two remaining ones about five hundred dollars.

Question. State what was the name of the mother of Peg.

Answer. I have heard said Shields and his wife say that her name was Pat.

Question. What was the probable annual value of the hire of those negroes from the time said Shields brought them to Pike County, until he ceased to be in possession of them?

Answer. The negro man Jack would, in his opinion, have hired for about eighty dollars a-year, upon an average; the negro woman Peg, about twenty-five dollars, until her death, which occurred eight or ten years ago.

Question. Have you ever heard Mr. Shields say anything about the title of those negroes?

Answer. I have heard him say that he had paid Goldsberry heirs the full value of the first stock of negoes, and that they were his on that account.

Question. Is the negro woman Pat living?

Answer. She is, and is in the possession of said Shields.

Question by Henry Yater, one of the Defendants. Do you recollect the age of Jack at the time he was brought to this county?

Answer. I do not know, but suppose him to have been about sixteen or seventeen; he was a good stout boy; Peg was about fourteen years of age.

Question. Do you suppose that the young negroes were worth their raising until they were missing, upon an average?

Ans. The two oldest ones, I think, paid for their raising, the three youngest ones did not.

Question. What do you suppose it was worth to raise the three youngest ones till the time they were missing?

Answer. Not less than one hundred dollars a-piece.

Question, by Plaintiff's Att'y. What would be the average value of the hire of Peg without a child?

Ans. When I answered before in relation to her hire, I spoke of her as having a child, but without a child she would have been worth forty dollars a year upon an average.

Ques. by Def't. What do you suppose it would have been worth to raise those five youngest children without a mother?

Answer. One hundred dollars a-piece.

Question. What were the ages of those young negoes at the time there were missing?

Ans. I suppose Bet was thirteen or fourteen years old, she was the oldest; Lize was a year and a half or two years younger; Cherry nine or ten; Mary, seven or eight; and Ben, four or five years old. I do not know that I am correct; I judge from the size and appearance of them that these were about their ages.

ELI JACKSON.

Sworn to and subscribed before me, on the day and at the place first aforesaid.

TIMOTHY FORD, *J. P.*

(*Elizabeth Unsell's Deposition.*)

Elizabeth Unsell being introduced, sworn and examined, deposeth and says:

Question, by Pl'ff's Att'y. Were you acquainted with children of the negro woman Peg, spoken of by Mr. Jackson in his deposition?

Ans. Yes.

Ques. Will you state their ages respectively, beginning with oldest?

Ans. At the time they were missing, Pat was about thirteen; Cherry was next, she was about in her eleventh year; Lize was about nine; Mary, about seven; and Ben was in his third year.

Ques. Do you know what time these negroes, and the negro man Jack, ceased to be in the possession of Mr. James Shields?

Ans. About five years ago last September.

Ques. Have you ever heard said Shields say anything about the right and title of those negroes?

Ans. I have heard Mr. Shields and his wife say they had paid the full value of the negroes, but had neglected to get some receipts they ought to have had.

Ques. What negroes did they then speak of?

Ans. They were speaking of the negroes being gone and the lawsuit having been instituted, and while speaking of that they made these remarks before stated.

Question, by Defendant. Have you any knowledge as to the age of Jack? How old do you suppose he was when he was brought to this county?

Answer. I think he was eighteen or nineteen years of age, or thereabouts.

Ques. How old do you suppose the negro woman Peg was when she was brought to this State?

Ans. About fifteen or sixteen years.

Ques. What do you think the hire of Peg to be worth from that time till the time of her death?

Ans. About forty dollars.

Ques. What do you suppose it was worth to raise these children without a mother till the time they were missing?

Ans. The three last, I think, would have been worth one hundred dollars a year each, until they were five or six years old, and then I think they could pay for themselves.

her
ELIZABETH + UNSELL.
mark.

Sworn and subscribed before me, at the place and on the day first aforesaid.

TIMOTHY FORD,
J. P.

(*Frederick Ashbaugh's Deposition.*)

Frederick Ashbaugh being introduced, sworn and examined, deposeth and says:

Question, by Pl'ff Att'y. Were you living with James Shields at the time those negroes spoken by former witness?

Ans. I was.

Ques. How long has it been since they were missing?

Ans. About five years.

Ques. Have they been in his possession since?

Ans. They have not.

Ques. Do you know whether the negroes are in this country or not?

Ans. I do not know where they are.

Ques. Have you been living with Mr. Shields ever since the negroes have been gone away?

Ans. Yes.

Ques. Have you ever seen those negroes since they have been gone away?

Ans. No.

Ques. Have you ever heard Mr. Shields say whether he had sold them, or any of them, or not?

Ans. I never did.

Ques. How long had you been acquainted with those negroes before said Shields parted with them?

Ans. I have been living with Mr. Shields since 1820.

Ques. Had said Shields those negroes in possession all the time you were acquainted with them?

Ans. He had.

Ques. by Defendant. How old was the negro man Jack when he first came to this State?

Ans. About thirteen years; he was very well grown.

Ques. What do you suppose his hire was worth at that time by the year?

Ans. He was not worth more than his victuals and clothes, the way negroes were hiring then.

Ques. Have you ever heard said Shields say how old the negro woman Peg was when she was first brought to this country?

Ans. I don't know that I have.

Ques. How old do you suppose she was?

Ans. She was still younger than Jack.

Ques. What do you suppose she would hire for at that time?

Ans. Not more that her victuals and clothes.

Ques. Have you ever heard said Shields or his wife say whether or not they had paid the heirs of Goldsberry's estate the full amount said estate?

Ans. Yes, the full amount, and more.

Ques. What do you suppose the negro man Jack was worth at the time he was missing?

Ans. About seven hundred dollars.

Ques. What do you think the oldest girl, Bet, was worth at that time?

Ans. About three hundred dollars.

Ques. What was the second girl (Cherry) worth?

Ans. Near about as much as the first.

Question. What was the third one (Lize) worth?

Ans. About two hundred and fifty dollars.

Ques. What was the fourth one (Mary) worth?

Ans. Two hundred dollars.

Ques. What was the youngest (Ben) worth?

Ans. I would not have been willing to give more than one hundred and fifty dollars for him.

Ques. What do you suppose it was worth to raise those negroes till the time they were missing, including their doctor's bill, &c.?

Ans. About one hundred dollars each till they were six years old.

his
FREDERICK + ASHBAUGH.
mark.

Sworn to and subscribed before me on the day and at the place first aforesaid.

TIMOTHY FORD,
J. P.

(*Wm. W. Waddell's Deposition.*)

William W. Waddell being introduced, sworn, and examined, deposeth and saith:

Ques. by Plff's Att'y. Were you acquainted with the negro man Jack, and the children of Peg, spoken of by the other witnesses?

Ans. I was.

Ques. What was the value of Jack at the time he ceased to be in the possession of Shields?

Ans. About nine hundred dollars.

Ques. What would be the value of such a negro at this time?

Ans. About eight hundred dollars.

Ques. What was the value of the children of Peg at the time they ceased to be in possession of said Shields?

Ans. The oldest about six hundred dollars, the next five hundred, the next four hundred, and the next two hundred dollars.

Ques. When did those negroes go out of the possession of said Shields?

Ans. About four or five years since.

Ques. Have you seen them since?

Ans. I have not.

Ques. How far do you live from said Shields?

Ans. Something like half a mile.

Ques. Are those negroes in this neighborhood?

Ans. Not that I know of.

Ques. by Def't. What do you suppose it was worth to raise those negroes, the five children, including all expenses, taxes, doctors' bills, &c.?

Ans. I would suppose about twenty-five dollars each a year, until they were four years old.

Ques. What do you suppose the hire of the woman Peg to be worth by the year?

Ans. I would not suppose she was worth anything with her children.

Ques. by Plaintiff's Att'y. What do you suppose the negro woman Peg to be worth with her children, she taking care of them?

Ans. I would not suppose it would be worth anything.

Ques. Would you in that case charge for keeping the children?

Ans. I think not.

Question. Do you think the labor of Peg was sufficient to pay for the raising of the children?

WM. W. WADDELL.

Sworn to and subscribed before me, on the day and at the place first aforesaid.

TIMOTHY FORD,
J. P.

(*Hanibal Emerson's Deposition.*)

Hanibal Emerson being introduced, sworn, and examined, deposeth and saith:

Question by Plff's Att'y. Were you acquainted with the negro man Jack, and the children of Peg, spoken of by former witnesses?

Ans. I was acquainted with Jack and a negro woman, I think her name was Peg, and some children, their names I do not now know, formerly in the possession of Mr. Shields.

Ques. When did said Shields part with the possession of said negroes?

Ans. Four or five years ago last fall.

Ques. Do you know how said Shields disposed of said negroes?

Ans. In the fall of 1835 I think it was I saw a bill of sale of the negroes from James Shields to John G. Shields and Henry Yater.

Ques. Do you recollect the amount of the consideration named in the said bill of sale?

Ans. I do not precisely, but think it was fifteen hundred or two thousand dollars.

Ques. In whose possession was the bill of sale?

Ans. I do not recollect, but it was in possession of either Henry Yater or John G. Shields, don't recollect which.

Ques. Was that before or after the negroes were out of the possession of James Shields?

Ans. After.

Ques. Did you see those negroes after they were out of the possession of James Shields?

Ans. Yes.

Question. Where and in whose possession?

Ans. In Lincoln County, in this State, in the possession of John G. Shields and Henry Yater.

Ques. What were they then doing with those negroes?

Ans. Their object seemed to be to sell them.

Ques. Were they then travelling with those negroes?

Ans. They were.

Ques. In what direction?

Ans. Towards St. Louis.

Ques. By land or by water?

Ans. By land.

Question. Did you see them afterwards?

Ans. Yes.

Ques. When and in whose possession?

Ans. I do not know whether it was in the State of Mississippi or Louisiana, but I think it was in the former, in the possession of Henry Yater; this is my best impression.

Ques. Do you know what disposition said Yater made of those negroes?

Ans. I do not know, but it is my impression that he told me that he sold them.

Ques. When you last saw the negroes were they on board a steamboat?

Ans. It is my impression they were.

Ques. Do you know whether said Yater brought them back with him or not?

Ans. He did not, I think.

Ques. Was said Yater then a resident of Pike County, Missouri?

Ans. Yes.

Ques. Was you then a resident of the same county?

Ans. No, I was residing in Lincoln County.

Ques. Were you on board the boat with said Yater at the time he was conveying the negroes down the river?

Ans. I was.

Question. How low did you go down the river with him?

Ans. To Vicksburg.

Ques. Where did said Yater say he was going with the negroes?

Ans. I don't think I heard him say.

State what negroes said Yater had with him.

Ans. They were five or six in number.

State whether they were the same negroes you before mentioned as being in the possession of Mr. James Shields.

Ans. They were the same I had seen at Mr. James Shields'.

Ques. by Deft. Have you ever heard James Shields say how old Jack, the negro man, was when he came to this country?

Ans. I have.

Ques. How old did he say he was?

Ans. I think it was fourteen or fifteen years.

Ques. What do you think was the value of the hire of a boy of that age at that time, and until he was disposed of by said Shields, upon an average?

Ans. About sixty-five dollars.

Ques. You stated that you was with Henry Yater on board the steamboat; where did you see the negroes, in the cabin, on deck, or where?

Ans. I do not know positively whether I ever saw them on board a steamboat, but it is my impression that I saw at least a part of them on some part of the boat.

Ques. What do you suppose the negro man Jack was worth at the time James Shields disposed of him?

Ans. About seven hundred dollars.

Ques. What do you think the young negroes were worth?

Ans. I think the oldest one was worth three hundred dollars; the others, upon an average, about two hundred dollars each.

Ques. What do you suppose it would be worth to raise those young negroes?

Ans. I think about two hundred dollars each until they were able to support themselves.

Ques. Did you ever hear James Shields say that he had paid for those negroes, and that they were his own?

Ans. I have, frequently.

Ques. In what way?

Ans. He said he had paid them one hundred and fifty or two hundred dollars more than the appraisement bill.

Ques. Did you ever hear the old man say he had never made any settlement?

Ans. I never did.

Ques. Did you ever hear James Shields say he had schooled Goldsberry's heirs, who are contending for these negroes, and they never paid anything for it?

Ans. I have.

H. EMERSON.

Sworn to and subscribed before me at the day and at the place aforesaid.

TIMOTHY FORD,
J. P.

I, Timothy Ford, a Justice of the Peace within and for the county of Pike, in the State of Missouri, do hereby certify that Eli Jackson, Elizabeth Unsell, Frederick Ashbaugh, William W. Waddell, and Hanibal Emerson, the deponents, were by me severally sworn to testify the whole truth of their knowledge touching the matter in controversy aforesaid; that they were examined, and their examination reduced to writing, and by them respectively subscribed in my presence, on the day and place in that behalf first aforesaid.

TIMOTHY FORD,
Jus. Peace.

Endorsed: 1841, April 26th, rec'd enclosed under seal.

(*Owen Willis' Deposition.*)

The deposition of Owen Willis, taken at the Clerk's office in Leitchfield, on Monday the 22d day of March, 1841, on behalf of the complainants, to be read as evidence in a suit in Chancery, now depending in the Grayson Circuit Court, wherein Joseph H. Thomas and others and James Shields and others are def'ts: the deponent being of age and first sworn, deposeth and saith.

Ques. by the Compl'ts. Were you acquainted with the slaves belonging to the estate of John Goldsberry dec'd, which were allotted to his widow, now the wife of the def't James Shields? if so, state all you know about them, and what went with them.

Ans. I was acquainted with Shields and his family when they resided in Grayson County, about 20 years ago; the negroes were a man named Matthew and a woman named Patt; Shields sold Matthew before he left the county for Missouri, for what am't I do not recollect, but I would say he was then worth $500 or $600. Shortly after this Shields removed to Missouri and took Patt and 2 children she then had, called Jack and Peg, with him. I do not know whether Shields and wife had the slaves allotted to them or not, but they claimed them as dower slaves, belonging to the heirs of John Goldsberry, dec'd.

By same. Please state what was the value of said slaves when Shields moved to Missouri, and what would be a reasonable hire for each from the time they took possession of them up to this time, as near as you can.

Ans. Patt was a grown woman and was worth about $25 a year from 1807 till Shields moved off to Missouri. As to the 2 children, for several years were not worth more than their victuals and clothes; at the time Shields moved, I would judge Jack was about 17 and Peg about 2 or 3 years younger; Jack's hire for 7 years would average about $15 per year, and Peg's about $8 or $10 for 5 years before Shields moved off. Since Shields moved to Mo. I know nothing of the negroes. Matthew was hired at the Lick for several years, say 2 or 3 after I got acquainted with him; his hire was then worth between $80 and $100 in salt.

By same. Are you acquainted with the children and heirs of John Goldsberry, dec'd? if so state their names.

Ans. Bennett, Nancy, Polly, and Elizabeth; Nancy married Uriah Pritle, Polly, Isaac Thomas, and Elizabeth, Jos. H. Thomas. I was well acquainted with them.

Ques. by the same. What was the age of Nancy when she married Pritle?

Ans. I do not know, but from her appearance I did not think she was 21 years old. I believe I was at the wedding.

By same. Have you been at Shields' in Mo. since he moved there? if so, when? and had he the negroes, or any of them or their increase in possession?

Ans. I was at his house in Missouri about 12 or 13 years ago; his wife was living, and they had the same three negroes in possession which they took from this country; Jack and Peg were well grown, likely negroes; Jack was worth about $800 and Peg about $400, Patt about $250.

Ques. by Jonathan Goldsberry. Were the heirs of John Goldsberry all of age when the property was moved?

Ans. They were all of age except Betsey; whether she was or not I do not know; I heard no objections made to Shields moving the property. Shields drew his part of old Mr. Andrew Burtle's estate with the other legatees some time before the removal of the property.

Ques. by James Burtle. Did not Shields and wife raise and school the children of John Goldsberry?

Ans. They did, but how it was paid for I do not know, and further saith not.

OWEN WILLIS.

The above and foregoing deposition was taken, subscribed and sworn to at the time and place in the caption mentioned.

Given under my hand as a Justice of the Peace for Grayson County this 22d day of March, 1841.

CHARLES WORTHAN,
J. P. G. C.

(*William Beatty's Deposition.*)

Also the deposition of William Beatty, taken at the same time and place, and for the same purpose, deposeth and saith:

Question by Complainants. Were you acquainted with Nancy Goldsberry at the time she intermarried with Uriah Pritle? if so, please state whether she was at the time of her said marriage 21 years of age or not.

Ans. I was well acquainted with her, and I was at the wedding; she was about 14 or 15 years of age; her grandfather contended she was 14, and her mother said she was 15 years of age, and from her appearance I am satisfied she was not more than that age; she is still his wife.

Ques. by James Burtle. Did or not Shields and wife and educate the children as their own?

Ans. They did, as far as I know; the girls continued to reside and work as a part of the family generally till they married; and further saith not.

WILLIAM × BEATTY.

The foregoing depositions of Wm. Beatty and Owen Willis were duly taken, subscribed, and sworn to by the deponents before me, at the time and place named in the caption. March 22d, 1841.

CHARLES WORTHAM,
J. P. G. C.

Endorsed: 1841, March 22d. Rec'd by hands of magistrate.

(*Abraham Neighbours' Deposition.*)

The deposition of Abraham Neighbours, taken at the house of Abraham Neighbours, in the county of Hardin and State of Kentucky, the 27th day of March, 1841, agreeably to the notice hereunto annexed, to be read as evidence on the part of complainants, in a suit in Chancery now pending in the Grayson Circuit Court, wherein Joseph H. Thomas, Uriah Pritle and Nancy Pritle, Elizabeth Thomas are complainants; and James Shields and Elenor his wife, James Burtle, Nancy Harwood, Jonathan Goldsberry and Polly his wife, Henry Horrel and Elizabeth his wife, Andrew Burtle, William Burtle, Ellen Burtle, Jackson Merrett and Elizabeth his wife, John Shields and Henry Yater, &c., defendants: the deponent being of lawful age, and first being duly sworn, deposeth and saith:

Ques. by Complainants. Are you or not acquainted with the heirs of John Goldsberry, dec'd, and if so, what are their names?

Ans. I am acquainted with them, and their names were Bennett, Nancy, Polly, and Elizabeth.

By same. Do or not you know with whom Nancy, Polly, and Elizabeth intermarried?

Ans. Nancy intermarried with Uriah Pritle, Polly with Isaac Thomas, and Elizabeth with Joseph Thomas.

Ques. by same. Was or not Nancy intermarried with the said Uriah Pritle before she was twenty-one years of age, and whether she does or not at this time live in that state with the said Pritle?

Ans. She was under the age of twenty-one years when she married with Uriah Pritle, and she still continues to be the wife of said Pritle.

Question by same. Were or not you acquainted with two negroes by the name of Matthew and Pat, which was the property of John Goldsberry, dec'd; and did or not said negroes fall into the hands of James Shields after he intermarried with the widow of said John Goldsberry, dec'd?

Ans. I was acquainted with said negroes.

Ques. by same. If so, state all you know about said negroes, and of their issue.

Ans. I believe about five years said Shields held the possession of the negro man Matthew, and then I understood he sold him; the negro girl Pat fell into the possession of Shields at about the age of thirteen or thereabouts; he still held the possession of Pat and her issue during his residence within this State.

Ques. by same. What was her issue, and what were their names?

Ans. She had two children, one by the name of Jack, and the other by the name of Peg.

Ques. by same. What was the hire of said negro boy Matthew worth per year?

Ans. I suppose his hire would be worth about fifty dollars per year.

Ques. by same. What do you believe Shields sold said Matthew for at the time he sold him?

Ans. I understood from Shields that he sold him for five hundred dollars.

Ques. by same. From the appearance of the negro girl Pat, what was she worth per year?

Ans. I do not know.

Ques. by Defendants. What is the age of Elizabeth, wife of Jos. Thomas?

Ans. She was forty-four years of age last February.

Ques. by same. How long since the removal of James Shields from the State of Kentucky to that of Missouri?

Ans. Upwards of twenty years.

Ques. In what year was James Shields intermarried with the widow of John Goldsberry, dec'd?

Ans. In the year 1799.

Ques. by same. During the widowhood of the widow of John Goldsberry, dec'd, did or not she raise and support her children until her marriage with Shields?

Ans. She did.

Ques. by same. Did or not Shields, after his marriage with the said widow, raise, school, and support said children decently until their marriage?

Ans. As to the amount of schooling they got I do not know, but believe he educated and supported them.

Ques. by same. Where did Shields live when he married with the widow of John Goldsberry, dec'd?

Ans. He lived in Nelson County, Kentucky.

Ques. by same. At what time did Shields move from Nelson County to what is now called Grayson County?

Ans. About the year 1804.

Ques. by Complainants. Did or not John Goldsberry, dec'd, leave a sufficient for the support of his widow and children during her widowhood?

Ans. I believe he did.

Ques. by Defendants. Did or not Shields remove a sufficence of property which were known to the heirs of John Goldsberry, dec'd, when he left this State for Missouri, sufficient value to satisfy said heirs?

Ans. He did.

By same. Did or not said Shields set apart certain species of property for the heirs of said John Goldsberry, deceased?

Ans. From the information of Shields and others, each of the daughters of said dec'd received of said Shields a horse.

By same. Did or not you hear Isaac Thomas say that he sent to the State of Missouri money belonging to James Shields, by the hand of Jho. Shields, son of said James Shields? if so, state how much.

Ans. Something near four hundred dollars.

Ques. by Complainants. What did the property consist in sufficient to pay the heirs referred to that the said Shields removed to Missouri?

Ans. As to the personal property I do not recollect, but he took the three negroes referred to in this deposition; and further this deponent saith not.

A. NEIGHBOURS.

I, Samuel Wortham, a Justice of the Peace in and for Hardin County, Kentucky, certify that the deposition of Abraham Neighbours was sworn to and subscribed before me at the same time and place, and for the same purpose as named in the caption.

Given under my hand this 27th day of March, 1841.

SAMUEL WORTHAM,
J. P. H. C.

Endorsed: "1841, March 30." Rec'd enclosed under seal.

(*James H. Wortham's Deposition.*)

The deposition of James H. Wortham, taken at the Clerk's office in Leitchfield, on the 23d day of April, 1842, to be read as evidence in a suit in Chancery now depending and undetermined in the Grayson Circuit Court, wherein Joseph H. Thomas and others are complainants, and James Shields and other defendants, taken on the part of the complainants.

The deponent being of lawful age, deposeth and saith:

Ques. by Complainants. Was or was you not acquainted with the negroes James Shields had in his possession when he lived in this county?

Ans. I was acquainted with some of them; I was acquainted with a boy they called Jack, and a woman called Pat.

Ques. by same. Had or had you not Jack employed about the year 1818?

Ans. I had him employed about the year 1818 or '19.

Ques. by same. What would you suppose the hire of Jack was worth, about that time, per year?

Ans. I would suppose it worth about a hundred dollars per year; and further this deponent saith not.

JAMES H. WORTHAM.

I do certify that the within deposition was taken, sworn, and subscribed to on the 23d day of April, 1842, before me, a Justice of the Peace for Grayson County, for the purpose expressed in the caption thereof.

H. S. BISHOP,
J. P. G. C.

Endorsed: "1842, April 25," rec'd by hands of magistrate.
Attest, JACK THOMAS,
C. G. C.

(*Defendants' Depositions. William Beatty's Deposition.*)

The following are the depositions read on the part of the defendants:—

The deposition of William Beatty, taken at the Clerk's office in Leitchfield, Grayson County, Ky., on the 23d day of April, 1842, agreeably to the notice hereto annexed, to be read as evidence on the part of the defendant, James Burtle, in a suit in Chancery now depending in the Circuit Court for the county of Grayson, wherein Joseph H. Thomas and wife, Isaac Thomas and wife, Uriah Pritle and wife, and others are complainants, and James Burtle and others are defendants: the deponent being of lawful age, and first duly sworn, deposeth and saith:

Ques. by Defendant, James Burtle. Was you or was you not acquainted with James Shields at the time John Goldsberry's children and heirs lived with him? and if so, state whether or not the said Shields did not clothe and educate the said children decently while they lived with him.

Ans. I was acquainted with James Shields at that time and the children of John Goldsberry; I always saw the children well clothed while they lived with Shields, and know that he sent them to school.

Ques. by Complainant. Do or do you not know that the children were of no expense to Shields after they became able to work?

Ans. I think their labor, after they became able to work, was worth their victuals and clothes.

Ques. by same. Do you know to what extent James Shields educated them?

Ans. I do not.

Ques. by Defendant, James Burtle. Was or was you not present when James Shields started to move from this county? and if so, whether or not you heard any of Goldsberry's heirs make any objections to his moving any property?

Ans. I was there at that time; Goldsberry's heirs were all present; I believe I heard no objections from them; and further this deponent saith not.

his
WILLIAM + BEATTY.
mark.

(*Adam Beatty's Deposition.*)

The deposition of Adam Beatty, taken at the same time and place, and to be read as evidence on the part of James Burtle in the same suit: the deponent being of lawful age, and first duly sworn, deposeth and saith:

Ques. by defendant, James Burtle. Was or was you not acquainted with James Shields at the time John Goldsberry's children lived with him, and with the said children? if so, state whether or not the said children were not well clothed and educated by the said Shields.

Ans. I knew said Shields from the time he moved to the county, and the children also; I always saw the children well clothed, and know that Shields sent them to school.

Ques. by same. Do or do you not recollect when Shields moved away from here?

Ans. I do.

Ques. by same. Do you know of any of Goldsberry's heirs making any objections to Shields moving any of the property?

Ans. I do not.

Ques. by Complainant. Do or do you not know that the said children were of no expense to Shields after they became able to work?

Ans. I think the children earned their victuals and clothes after they became able to work; and further this deponent saith not.

ADAM BEATTY.

I do certify that the within depositions of William Beatty and Adam Beatty were taken, sworn, and subscribed to before me, a Justice of the Peace for Grayson County, on the 23d day of April, 1842, for the purpose expressed in the caption thereof.

H. S. BISHOP,
J. P. G. C.

Endorsed: "1842, April 25th," rec'd by hand of magistrate.

Attest, JACK THOMAS,
Clk.

(*Abraham Neighbours' Deposition.*)

The deposition of Abraham Neighbours, taken at the tavern house of Thomas M. Yater, in Elizabethtown, this 21st of June, 1842, to be read as evidence in a suit in Chancery now depending in the Grayson Circuit Court, wherein Joseph H. Thomas and wife, and others, are complainants, and James Burtle and others are defendants; the deponent being of lawful age, and duly sworn, deposeth and saith:

Ques. by Defendants. Were you or were you not acquainted with John Goldsberry in his lifetime?

Ans. I was.

By same. When did he die?

Ans. He died about the twentieth of July, 1797, in the county of Nelson.

By same. What children did he leave at his death, and what were their ages?

Ans. Nancy, Polly, Betsey, and Bennett; Betsey was born in February, 1797, the others were older than Betsey, she was the youngest; and I suppose there was about two years difference in their ages.

By same. Did or did not the widow raise the children until she married James Shields?

Ans. She did; Bennett came to live with me when he was about thirteen years old, to learn the blacksmith trade.

By same. When did the widow marry James Shields?

Ans. Early in 1798, I believe.

By same. Did or not James Shields, after his marriage with the widow, raise and take care of the children, the girls, until they married, and Bennett until he went to live with you?

Ans. I believe he did.

By same. Did he not send them to school and have them taught the ordinary branches of learning?

Ans. They all had some education; Polly can read very well, and Betsey is, I think, a pretty good scholar; Betsey went one session to Nazareth; I never knew anybody to send them to school unless it was Shields; I saw Nancy when a girl, about thirteen years old, going to school to Henry Hull.

By same. Were or not the children well taken care of by Shields, and well clothed, suitable to their condition in life?

Ans. They were; as far as I ever knew they were well clothed; I lived close neighbors to Shields until he moved to Missouri.

By same. Do you or not know of any horses or saddles given to the children by Shields?

Ans. Nancy got a fine mare worth $100; Betsey got a mare worth $100; Polly got a mare worth $50; the creatures came into the possession of the husbands of those girls after they were married; I do not know whether Bennett got a horse or not; as to saddles and bridles I know nothing, except they had saddles, but whether they got them from Shields I do not know.

By Compl't Thomas. Do you or not know who sent the children of said Shields to school?

Ans. I do not; Nancy I saw going to school; the girls all lived with Shields until they married.

By same. To what extent were they educated?

Ans. I cannot say certainly; Elizabeth could read and write; I do not know whether Polly could write or not; I think she can write, but of this I am not certain.

By same. What age was Bennett when he came to live with you to learn the blacksmith trade? and had he, when he came to you, any education?

Ans. He was about thirteen years old when he came to live with me; he had no education when he came to me; I sent him to school when he was living with me; and after he left me Shields paid me $20 for the schooling and boarding of him while he lived with me; he lived with me about three years; he came to live with me the year after Shields married his mother.

By same. Did or not each of the children work and labor for Shields and his family until they married?

Ans. Bennett worked for him very little; the girls all lived with him; and so far as I know they all worked when there, as the other members of the family.

By same. Do you or not believe the work and labor of the girls was each worth the expense of raising and schooling them in the manner they were raised and schooled?

Ans. I do not; and further this deponent saith not.

A. NEIGHBOUR.

HARDIN COUNTY, SCT:

The foregoing deposition was this day taken, subscribed and sworn to before the undersigned, a Justice of the Peace for said county, at the time and place, and for the purpose stated in the caption hereof.

Given under my hand this 21st day of June, 1842.

WILL. M. DUNAVAN,
J. P. H. C.

Endorsed: 1842, July 22d, rec'd enclosed under seal.

Attest, JACK THOMAS,
C. G. C. C.

And afterwards, to wit: on the 20th day of November, 1844, the following execution issued against James Burtle, to wit:—

PRITLE AND WIFE
vs. } *Fi. fa.*
SHIELDS, &c.

The Commonwealth of Kentucky to the Sheriff of Grayson County, greeting: We command you that on the estate of James Burtle, James Shields, John, *alias* John G. Shields and Henry Yater, late of your bailiwick, you cause to be made the sum of seven hundred and thirty-five dollars and seventy-three cents, which Uriah Pritle and Nancy his wife, lately in our Grayson Circuit recovered against them by virtue of a decree of said Court; also the of forty-five and a half cents for their cost sin that behalf expended: that part made of James Burtle is to be made and levied of the assets in his hands as executor of the last will and testament of Andrew Burtle, dec'd, in his hands unadministered; whereof they are convicted as appears to us of record, and that you have the same before the Judge of our Grayson Circuit Court, at the Court-house in Leitchfield, on the Saturday next after the 4th Monday in December next, to render to the said Uriah Pritle, and Nancy, his wife, of the said of $735 73 cents and 45½ cents aforesaid: and have you then there this writ.

Witness, Jack Thomas, Clerk of our said Court, at the Court-house aforesaid, this 20th day of November, 1844, and in the 53d year of the Commonwealth.

JACK THOMAS,
C. G. C. C.

Endorsed: Came to hand this 26th day of Nov. 1844.
ELI BOZOITH,
S. G. C.

Upon which the Sheriff made the following return: No property found to satisfy this execution, or any part thereof.
ELI BOZORTH,
S. G. C.

JOS. H. THOMAS AND WIFE
vs. } *Fi. fa.*
SHIELDS, &c.

The Commonwealth of Kentucky to the Sheriff of Grayson County, greeting: We command you, that of the estate of James Burtle, James Shields, John, *alias* John G. Shields, and Henry Yater, late of your bailiwick, you cause to be made the sum of seven hundred and thirty-five dollars and seventy-three cents, which Joseph H. Thomas and Elizabeth Thomas, his wife, lately in our Grayson Circuit Court recovered against them by virtue of a decree of said Court; also the sum of forty-five cents for their cost in that behalf expended: that part made of James Burtle is to be made and levied of the assets in his hands as executor of the last will and testament of Andrew Burtle, deceased, in his hands unadministered; whereof they are convicted, as appears to us of record; and that you have the same before the Judge of our Grayson Circuit Court at the Court-house in Leitchfield, on the Saturday next after the 4th Monday in December next, to render to the said Joseph H. Thomas and Elizabeth Thomas, his wife, of the said sums of $735 73 and 45½ cents aforesaid: and have then and there this writ.

Witness, Jack Thomas, Clerk of our said Court, at the Court-house aforesaid, this 20th day of November, 1844, in the 53d year of the Commonwealth.

JACK THOMAS,
C. G. C. C.

Endorsed: Come to hand this 26th day of Nov. 1844.
ELI BOZORTH,
S. G. C.

(*Sheriff's Return.*)

Upon which the Sheriff made the following return: No property found to satisfy this execution, or any part thereof.

ELI BOZORTH,
S. G. C.

ISAAC THOMAS AND WIFE
vs.
SHIELDS, &c.
} *Fi. fa.*

The Commonwealth of Kentucky to the Sheriff of Grayson County, greeting: We command you, that of the estate of James Burtle, James Shields, John, *alias* John G. Shields and Henry Yater, late of your bailiwick, you cause to be made the sum of two hundred and two dollars and seventy-four cents, which lately in our Grayson Circuit Court Isaac Thomas and Polly, his wife, recovered against them by virtue of a decree of said Court; also the sum of forty-five and a half cents for their costs in that behalf expended: that part made of James Burtle, is to be made and levied of the assets in his hands as executor of Andrew Burtle, deceased, in his hands unadministered: whereof they are convicted, as appears to us of record; and that you have the same before the Judge of our Grayson Circuit Court, at the Court-house in Leitchfield, on the Saturday next after the 4th Monday in December next, to render to the said Isaac Thomas and Polly, his wife, of the said sums of $202 74 and 45½ cents aforesaid; and have then there this writ.

Witness, Jack Thomas, Clerk of our said Court, at the Court-house aforesaid, this 20th day of November, 1844, in the 53d year of the Commonwealth.

JACK THOMAS,
C. G. C. C.

Endorsed: Came to hand this 26th day of Nov. 1844.

ELI BOZORTH,
S. G. C.

(*Sheriff's Return.*)

Upon which the Sheriff made the following return: No property found to satisfy this execution, or any part thereof.

ELI BOZORTH,
S. G. C.

B. GOLDSBERRY'S HEIRS
vs.
SHEILDS, &c.
} *Fi. fa.*

The Commonwealth of Kentucky to the Sheriff of Grayson County, greeting: We command you that of the estate of James Burtle, James Shields, John, *alias* John G. Shields, and Henry Yater, late of your bailiwick, you cause to be made the sum of eleven hundred and twenty-four dollars and twenty-eight cents, which Elizabeth Goldsberry, John Goldsberry, and Ann Goldsberry, infant children and heirs of Bennett Goldsberry, deceased, lately in our Grayson Circuit Court recovered against them by virtue of a decree of our said Court; also the sum of forty-five and a half cents for their costs in this behalf expended. That part made of James Burtle, is to be made and levied of the assets in his hands as executor of the last will and testament of Andrew Burtle, deceased, in his hands unadministered, whereof they are convicted, as appears to us of record, and that you have the same before the Judge of our Grayson Circuit Court at the Court-house in Leitchfield, on the Saturday next after the 4th Monday in December next, to render to the said Elizabeth Goldsberry, John Goldsberry, and Ann Goldsberry, infant children and heirs of Bennett Goldsberry, deceased, of the said sums of $1,124 28, and 45½ cents aforesaid: and have then there this writ.

Witness Jack Thomas, Clerk of our said Court, at the Court-house aforesaid, this 20th day of November, 1844, and in the 53d year of the Commonwealth.

JACK THOMAS,
C. G. C. C.

Endorsed: Come to hand this 26th day of Nov., 1844.

ELI BOZORTH,
S. G. C.

(*Sheriff's Return.*)

Upon which the Sheriff made the following return: No property found to satisfy this execution, or any part thereof.

ELI BOZORTH,
S. G. C.

JOS. H. THOMAS
vs.
SHIELDS, &c.
} *Fi. fa.*

The Commonwealth of Kentucky to the Sheriff of Grayson County, greeting: We command you that of the estate of James Burtle, James Shields, John, *alias* John G. Shields and Henry Yater, late of your bailiwick, you cause to be made the sum of sixty dollars fifty-seven and a half cents, which lately in our Grayson Circuit Court was adjudged to Joseph H. Thomas and Elizabeth Thomas his wife, Uriah Pritle and Nancy Pritle his wife, for their cost expended in commencing and prosecuting a suit in Chancery against them in our said Court, whereof they are convicted, as appears to us of record, and that you have the same before the Judge of our said Court at the Court-house in Leitchfield, on the Saturday next after the 4th Monday in December next, to render to the said Joseph H. Thomas and Elizabeth his wife, and Uriah Pritle and Nancy his wife, of their costs aforesaid: and have then there this writ.

Witness Jack Thomas, Clerk of our said Court, at the Court-house aforesaid, this 20th day of November, 1844, and in the 53d year of the Commonwealth. That part made of James Burtle, is to be made and levied of the assets in his hands as executor of the last will and testament of Andrew Burtle, deceased, in his hands unadministered.

JACK THOMAS,
C. G. C. C.

Endorsed: Come to hand this 26th day of Nov., 1844.

ELI BOZORTH,
S. G. C.

(*Sheriff's Return.*)

Upon which the Sheriff made the following return: No property found to satisfy this execution, or any part thereof.

ELI BOZORTH,
S. G. C.

And afterwards, to wit: at a Court held for the Grayson Circuit, at the Court-house in Leitchfield, on Monday, the 26th day of October, 1846, the following proceedings was had, to wit:—

JOSEPH H. THOMAS AND WIFE, &c., Complainants,
against
JAMES BURTLE, &c., Defendants.
} In Chancery.

This day came the defendant, James Burtle, and filed the following opinion of the Court of Appeals, to wit:—

(*Opinion of the Court of Appeals.*)

"STATE OF KENTUCKY, SCT:

COURT OF APPEALS, 22*d April*, 1846.

JAMES H. BURTLE *& al.*, Pl'ts,
against
JOSEPH H. THOMAS *& al.*, Def'ts.

Upon a W. E. to a decree of the Grayson Circuit Court.

The Court being sufficiently advised of and concerning the premises, delivered the following opinion herein, to wit:—

In 1797 John Goldsberry died in the County of Nelson intestate, leaving a widow and four infant children. In 1798 administration upon his estate was granted to his widow, who, in the following year, married James Shields. The deceased left two slaves, and a small personal estate. In 1804 Shields sold one of the slaves, by the name of Mat; the other, a female, by the name of Pat, had two children within a few years after the widow intermarried with Shields—a boy, called Jack, and a girl, called Peggy. Bennett Goldsberry, the oldest child, after a few years was put to a trade. The other three children, who were daughters, were raised in the family of their step-father; one of them married Isaac Thomas, another Uriah Pritle, and the third married Joseph H. Thomas. In 1819, after the daughters were thus married, Shields and his wife removed from the county of Grayson, where they were then living, to the State of Missouri, taking with them the female slave Pat, and her two children, Jack and Peggy.

In 1839 Joseph H. Thomas and wife and Pritle and wife exhibited their bill in Chancery in the Grayson Circuit Court against Shields and wife, James Burtle as the executor of Andrew Burtle, who was the security of Mrs. Shields, in her bond as administratrix of her first husband; also against Isaac Thomas and wife, and the infant children of Bennett Goldsberry, John Shields, and Henry Yater, and also the heirs or devisees of Burtle were also made defendants. In addition to foregoing facts, the complainants allege that there had been no settlement and distribution of the estate of their ancestor, John Goldsberry; that the slave Peggy had five children, and that the said Shields and wife refused to surrender the slaves in their possession, or to account and pay over the hire when demanded; but, with a view to defraud the complainants, had sold and disposed of all said slaves; that the defendants, their son John Shields, and their son-in-law Henry Yater, had combined and confederated with them to remove and dispose of said slaves.

John Shields answered, denying all the allegations of fraud. James Burtle answered that his testator had died twenty-five years before, and that his estate had long since been distributed, and resisted the claim of complainants upon various grounds. The heirs also answered in the same way. Isaac Thomas and wife admit the allegations in complainant's bill, and pray for a settlement and distribution of the estate of said Goldsberry: Shields and wife, the infant heirs of Bennett Goldsberry, and Yater, being all non-residents, were proceeded against as such. During the progress of the cause Mrs. Shields died.

The Circuit Court decreed that the defendants James Burtle, James Shields, John Shields, and Henry Yater pay to Joseph H. Thomas and wife $735 73; to Pritle and wife, the same sum; to Isaac Thomas and wife, $202 74; and to the heirs of Bennett Goldsberry, $1,124 28 c., and also to the complainants their costs. That as to James Burtle, the several sums decreed are to be made and levied of assets in his hands, to be administered as executor of Andrew Burtle, deceased. To reverse that *that* decree, this writ of error is prosecuted by James Burtle, &c.

In the revision of the case, we will first notice the basis upon which the Court below seems to have founded its decree.

An account was taken, in which the administratrix is charged with two-thirds the personalty embraced in the inventory, and of the hire of the slaves and their increase, and with whole value of all the slaves in being at the time: Shields appears to have made some disposition of them in Missouri about 1835, subject however to a deduction for raising the young ones, and for advancements to the heirs of Shields. She is also charged with the price of the slave Mat, sold by Shields in 1804. No credit is given or allowance made for burial expenses, the cost of administration, or for the services of the administratrix; nor for the raising and education of the children of Goldsberry. A calculation upon this basis to ascertain the liability of the administratrix, it seems to us does injustice to her and the other defendants sought to be made responsible.

It will be recollected that Goldsberry left four infant children, the oldest between eight and nine years old, and the youngest only a few months. The children continued, as they should, with their mother, and after her second marriage, with her and their step-father, the son some five or six years when he went to a trade, the daughters till they were married. They all appear to have been treated with parental kindness, affection, and liberality. They were well raised and educated. The whole amount of the personal estate, as stated in the inventory, no sale thereof appearing to have been made, after deducting one-third for dower, and a very reasonable sum for burial expenses, and the costs of administration, was less than four hundred dollars; of this sum the wearing apparel of the father of the female complainants constituted near sixty, and the bedding and other articles of the household furniture, more than a hundred dollars.

The residue, except a small amount in money, consisted of stock and farming utensils. The only other available means which the mother had for the support of her infant children, was the hire or services of the two slaves, in which she was entitled to dower.

It seems to us, under such circumstances, unjust that the children should be allowed anything for the hire of the slaves, or either of them. The mother and administratrix, and her husband, in appropriating to the support of the children their interest in the hire, did them no wrong. The amount and even interest upon their portion of the personalty must have been wholly inadequate to their support. There is some testimony in the record going to show that their services in the family were a fair compensation for boarding, clothing and educating them.

It would require strong testimony to bring us that conclusion. The testimony in the record is not sufficient. It may have been the case after they were grown. It was manifestly not the case before, and we are not inclined to go into an inquiry as to the value of their services when grown, with a view to a set-off against their support before that time; our conclusion is, that Shields and wife ought to be charged nothing for the hire of either of the two slaves left by Goldsberry, nor of their descendants or issue. They ought not to be charged for the hire of Mat, because he was sold in 1804, when the children were all very young and still in the family; nor for the female slave Pat, for another reason, (viz:) that she was the widow's, or Mrs. Shields' dower in the slave estate of her first husband. It is true there is nothing in the record to show that she was allotted to her as such under any judicial order or decree; but the

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allegations in the complainants' bill, together with numerous facts and circumstances in the record, which will be adverted to, fully justify the presumption, that after all the heirs were of age, she was so considered and treated by them.

In an amended bill the complainants suggested the death of Mrs. Shields since the previous term of the Court, and then proceeded to allege that said Shields, and Elenor his wife, held the slaves up to the time they left this State as the property of the estate of John Goldsberry, subject to the right of dower of his widow, the said Elenor, and never pretended to hold them in any other way. It is true they further allege that partition and division of said slaves could not be made without selling them, which complainants did not wish to force, and have them scattered, and therefore they did not urge a division of them, so long as they considered their right were secured. Shields and wife moved from Grayson County to Missouri, in 1819, and took with them the female slave Pat, and her two children, Jack and Peggy, the former about seventeen, the latter about fifteen years of age; all the children were at that time of age; two of the girls, if not all three, were then married; all the children were present when they started; set up no claim to the slaves, or either of them, and made no objections to their being taken to Missouri. No settlement or arrangement in regard to hire was made, and no claim to hire asserted, nor until twenty years afterwards, so far as appears, when it was set up by complainants in their original bill; another reason for regarding the female slave as the dower of the widow, is that she would have been a just and equitable allotment. The slave Mat hired for $70 per year, and Pat for $25; or that seems to have been the value of their hire. The age of Mat does not appear, but estimating the value of a life estate in the two from the annual value of their hire, which would probably be a correct criterion; and more especially taking into consideration the probability that the female would be encumbered with children, upon whose services little calculation be made, she would not execute a reasonable allotment of dower in the two. It is true there is some proof that in 1835 the heirs set up some claim to the slaves in Missouri; but from 1819 to that time, or period of sixteen years, the right of Shields and wife to hold them, and that they were entitled to their services and hire, does not appear to have been questioned. In view of the whole case, and all the facts and circumstances, we think it may be fairly inferred, that Mrs. Shields elected to hold Pat in right of her dower, and that all the heirs, when of full age, acquiesced and confirmed her election. It is difficult upon any other principle to account for the entire silence for so great a lapse of time of all the heirs, including the husbands of the females, upon the subject of hire, and of their entire acquiescence in the removal out of the State, possession and enjoyment by Shields and wife, of Pat and her two grown children. The complainants do not allege that they labored under any delusion in regard to their rights; on the contrary they expressly allege, as we have seen, that they were fully aware when the slaves were taken by Shields and wife to Missouri, that they held them as belonging to the estate of Goldsberry, subject to the dower of Mrs. Shields: there is nothing, we think, in the fact relied on by counsel, that one of the daughters married under age, and consequently, that her interest would not be affected by lapse of time; her interest, upon her marriage, immediately vested in her husband, who was competent to assert and protect it. In regard to the sale of the slave Mat, by Shields, no objections or complaint appears ever to have been made, or indeed is any made now; whether the proceeds were vested in lands, as suggested by counsel, for the use of the family, does not appear. But the evidence in the record is ample, that Shields has paid over to the complainants, more than their portions of the personalty, and the proceeds of the sale of Mat. The defendants, Thomas and wife, have also received more than their share, and we are also satisfied that Bennett Goldsberry received his proportion. It follows, then, from the view we have taken of the whole case, and the principles which should govern it, that the complainants have failed to manifest their right to any relief against any of the defendants, on account of the personal estate, the proceeds of the slave Mat, or the hire of any of the slaves belonging to the estate of their ancestor. To the issue of the slave Pat, she having died about 1832, the heirs were entitled, upon the death of the widow; but as they appear to have been sold and converted by her husband and the defendants, John G. Shields and Henry Yater, before that time, the heirs had a right to proceed immediately against them for the proceeds. But as they were held by Shields and wife in virtue of her right of dower, Burtle's representatives were not responsible upon the administration bond or otherwise. The administratix is under no liability to the hire for slaves allotted to the widow as dower. His control over them after that time ceases, and they vest absolutely in the heirs, subject to the dower estate. In this cause, as the heirs permitted the widow and her husband to remove the slaves out of the State, and there hold them for twenty years, Burtle's estate ought not to be held liable, whether held as dower or not. But we think the defendants, James Shields and his son John, and his son-in-law Yater, ought to be held responsible for the value of the slaves at the time of the conversion. Although the defendant, John, denies all the allegations of fraud, he does not deny that he was concerned in the sale of the slaves, and received the proceeds of a portion thereof. James Shields held the slaves in trust for the heirs, subject to the dower of his wife, as he, with the aid of the other defendants, have converted them, the proceeds, as the heirs elect so to regard it, would be a trust fraud, for which he and the defendants, John and Yater, who hold it, are liable.

But as the complainants seek a settlement of the whole estate, and as we are satisfied the advancements made by Shields to the

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complainants, and to the defendant Thomas and wife, exceed their respective portions of the personalty and the proceeds of the sale of Mat, we are of opinion the excess should be applied in reduction of their respective portions of the value of the slaves when converted. In addition to the receipts in the record, we think the complainants, Thomas and wife, and Pritle and wife, should each be charged with one hundred dollars for the two mares furnished by Shields to the said females, and that the defendants, Thomas and wife, should be charged with $50 for a similar advancement to her.

It is therefore ordered and decreed that the decree of the Circuit Court be reversed, and the cause be remanded, with directions to dismiss the complainant's bill as to the executor, devisees, and heirs of Andrew Burtle; and for further decree against the defendants, James Shields, John G. Shields and Henry Yater, consistent with the principles of this opinion; which is ordered to be certified to said Court.

A Copy.

Teste, J. SEVIGEST,
C. C. A.

And afterwards, to wit: at the same Court, continued and held for the Grayson Circuit, at the Court-house in Litchfield, on Wednesday, the 28th day of October, 1846, the following proceedings was had, to wit:—

(*Final Decree.*)

JOSEPH H. THOMAS AND WIFE, &c., Complainants,
vs. } In Chancery.
JAMES SHIELDS and others, Defendants.

This day came the parties by their counsel, and thereupon this cause came on to be heard. In conformity to the opinion of the Court of Appeals entered in this cause, and upon due consideration had thereon by the Court, it is decreed and ordered the complainants' bill as to James Burtle, and the heirs and devisees of Andrew Burtle, deceased, be dismissed, and that the complainants pay to the above named defendants their costs herein expended. It is further decreed and ordered that the defendants, James Shields, John G. Shields, and Henry Yater pay to the complainants, Joseph H. Thomas and wife, the sum of $872; that said defendants pay to the complainants, Uriah Pritle and wife, the sum of $872; also that said defendants pay to the defendants, the heirs of Bennett Goldsberry, deceased, the sum of $1,038, and that said defendants also pay to the defendants, Isaac Thomas and wife, the sum of $254. These sums being the balance of the value of the slaves Jack, Betty, Cherry, Lize, Mary and Ben, sold by said defendants in 1835, and interest, after having first deducted from the part of Isaac Thomas and wife the price of the mare advanced them by Shields, valued at $50, as well as his other over advances of the personalty, and from the part due the complainants, Joseph H. Thomas and wife, and Pritle and wife, each $100, for a mare, advanced to each of them. In conformity of the opinion of the Court of Appeals, it is further decreed and ordered that the said defendants pay to the complainants their costs herein expended.

(*Compl'ts' Costs*)

Complainants' costs in this suit recovered against James Shields, John G. Shields, and Henry Yater . .	$66 73½
Clerk's fee for this transcript	24 00
	$90 73½

(*Clerk's Certificate.*)

State of Kentucky,
Grayson Circuit, sct:

I, Jack Thomas, Clerk of the Grayson Circuit Court, in the State of Kentucky, do certify that the above and foregoing ninety-five (95) pages contain a full, true, perfect, and complete transcript of the record papers and proceedings had in the suit therein mentioned, wherein Joseph H. Thomas, and Elizabeth, his wife, and Uriah Pritle, and Nancy, his wife, are complainants, and James Shields, John, *alias* John G. Shields, Henry Yater and others, are defendants.

In testimony whereof I have hereunto set my hand, and affixed the seal of the Circuit aforesaid, at Litchfield, this 9th day of December, in the year of our Lord one thousand eight hundred and forty-six.

[SEAL.] JACK THOMAS,
Clerk of Grayson Circuit Court.

(*Judge's Certificate.*)

State of Kentucky,
Grayson Circuit, sct:

I, Richard A. Buckner, one of the Commonwealth Circuit Judges in and for the State aforesaid, and Presiding Judge of the Grayson Circuit Court, do certify that Jack Thomas, whose name appears to the foregoing certificate, is, and was at the time of signing the same, Clerk of the Grayson Circuit Court in the State aforesaid, duly appointed and qualified as such, to whose official acts due faith and credit is due, as well within as without this State, and that his attestation is in due form of law.

Given under my hand this 30th day of December, A. D. 1846.

RICH'D A. BUCKNER.

ISAAC THOMAS & others }
vs. }
JOHN G. SHIELDS. }

Before the Hon. John J. Dyer, Judge of the District Court of the United States within and for the District of Iowa, sitting in Equity.

(*Amendment to the Bill in said case.*)

NORTHERN DIVISION OF THE DISTRICT OF IOWA:

July Term, 1853.

The said Nancy Pritle states that the said Uriah Pritle is now dead; that she was and is the person in whose right the said sum of eight hundred and seventy-two dollars was decreed to said Uriah and herself; that she is now a *feme sole*, and a citizen of the State of Kentucky.

Thomas Starks, and Elizabeth Starks, his wife, late Elizabeth Goldsberry, James Pickett and Ann Pickett, his wife, late Ann Goldsberry, all citizens of the State of Missouri, come and complain and say against the said John G. Shields (they and he being citizens of different States), as the said Isaac Thomas, said Mary Thomas said Nancy Pritle, and said John B. Goldsberry in the said bill have already complained and said, and further say that the said Elizabeth Starks is one of the said heirs of said Bennett Goldsberry, deceased, and that the said Thomas Starks and said Elizabeth Starks are entitled to receive of and from the said defendant one-third of the said sum of ten hundred and thirty-eight dollars, so decreed to the heirs of said Bennett Goldsberry, and damages for the detention of the same, to wit: damage in the sum of 5,000 dollars and costs; that the said Ann Pickett is one of the said heirs of said Bennett, deceased, and that the said James Pickett and said Ann are entitled to receive of and from the said John G. Shields one-third of said sum of ten hundred and thirty-eight dollars and damages for the detention of the same, to wit: damages in the sum of 5,000 dollars and costs; and that they, or either of them, have not received any part of the sum so decreed to the heirs of said Bennett, deceased.

The said Thomas Starks and Elizabeth Starks pray that the said John G. Shields be ordered and decreed to pay to them one-third of the said sum of 1,038 dollars, to wit: 364 dollars, and damages for the detention of the same from said 28th of October, 1846, and costs.

And the said James Pickett and Ann Pickett pray that the said John G. Shields be ordered and decreed to pay to them one-third of said sum of 1,038 dollars, to wit: 364 dollars, and damages for the detention thereof from said 28th of October, 1846, and costs: And these complainants, and each of them, pray as the other complainants have already prayed.

And the said Nancy Pirtle prays for a decree in her favor, instead of in favor of said Uriah Pirtle and herself, as before prayed for; and that the name of said Uriah be dropped as a party complainant in this case.

McKINLEY & BISSELL,
Solicitors for Complainants.

PLATT SMITH,
Counsel for Complainants.

Endorsed: Filed June 22d, 1853.

T. S. PARVIN,
Clerk.

By BENJ. RUPERT,
Deputy.

U. S. DISTRICT COURT,
Northern Division Iowa:

The demurrer of John G. Shields, defendant to the bill of complainant of Isaac Thomas and Mary Thomas, his wife, Uriah Pirtle and Nancy Pirtle, his wife, and John B. Goldsberry, complainants, and the bill amendatory thereto of Nancy Pirtle, Thomas Starks, and Elizabeth Starks, his wife, late Elizabeth Goldsberry, James Pickett, and Ann Pickett, his wife, late Ann Goldsberry, complainants.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the said bill and bill amendatory thereto to be true in such manner and form as the same are therein set forth and alleged, doth demur thereto; and for causes of such demurrer states the following:—

1*st*. The said complainants, in and by their said bill, and by the bill amendatory thereto, have not made or stated such a case as doth or ought to entitle them, or any of them, to any such discovery or relief as is thereby sought and prayed for from or against this defendant.

2*d*. The decree so rendered in the Grayson Circuit Court, as set forth in said complainant's bill, and bill amendatory thereto, was null and void for the want of jurisdiction in the said Court over the subject-matter in suit before said Court, as appears by the record thereof by said complainants.

3*d*. The decree so rendered in the Grayson Circuit Court, as set forth in such complainant's bill and bill amendatory thereto, is null and void for want of jurisdiction over the defendants, made parties thereto, to wit: James Shields and Henry Yater, who were non-residents of the State, and in nowise subject to the jurisdiction of said Court, and made no appearance in said cause.

4*th*. The said judgment and decree of the Grayson Circuit Court, as set forth in said complainant's bill and bill amendatory thereto,

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is null and void as to the said defendant, John G. Shields, for the want of jurisdiction in said Court to pronounce the same against James Shields and Henry Yater, who are impleaded with said defendant before said Court, and against whom said decree was rendered jointly with this defendant, the said James Shields and Henry Yater being non-residents, and not being served with process, nor appearing in any way nor at any time to submit to the jurisdiction of said Court.

Wherefore this defendant demands the judgment of this Honorable Court whether he shall be compelled to make or other answer to the said bill and bill amendatory thereto, or any of the matters and things therein contained, and prays to be hence dismissed with his reasonable costs in this behalf sustained.

HEMPSTEAD & BURT,
Def'ts Sol's and of Counsel.

The plaintiffs join in demurrer in the several causes set forth by defendant.

SMITH McKINLEY & POOR and F. E. BISSELL,
Solicitors for Pl'ffs.

Endorsed: Filed September 28th, 1853.

T. S. PARVIN,
Clerk.

By BENJ. RUPERT,
Deputy.

UNITED STATES DISTRICT COURT,
January Term, 1854.

JOHN G. SHIELDS
ads.
ISAAC THOMAS and others.

And now comes the defendant, by his attorneys, Hempstead and Burt, and in open Court assigns the following cause of demurrer to the plaintiff's petition. That the said bill, as appears thereby, is exhibited by Isaac Thomas and Mary Thomas, his wife, John B. Goldsberry, Thomas Starks and Elizabeth Starks, his wife, James Pickett and Ann Pickett, his wife, for several and distinct matters and causes in which those said plaintiffs are not jointly interested, and which said several and distinct matters and causes of action, so as aforesaid pleaded by the said plaintiffs, ought not to have been joined together in one bill; wherefore, and for other good causes of demurrer, apparent on the said bill, this defendants demurs thereto, and prays that judgment of this Honorable Court whether he shall further answer the same; and he prays to be hence dismissed with his reasonable costs.

HEMPSTEAD & BURT,
Deft. Att'ys.

Joinder in demurrer.

SMITH McKINLEY & POOR & BISSELL,
Att'ys for Plaintiff.

Endorsed: Filed January 3, '54.

T. S. PARVIN,
Clerk.

IN THE UNITED STATES DISTRICT COURT,
District of Iowa, Northern Division:
January Term, 1854.

ISAAC THOMAS *et al.*
vs.
JOHN G. SHIELDS.

Whereas, on the suggestion of the Court, there may be some doubt as to the mode of raising the question of jurisdiction of the original cause, presented by the record in this case, whether it is sufficient by demurrer, or whether it may be necessary to be presented by plea: Now, to avoid any question on this subject, the solicitors for the plaintiffs and the defendant agree that no advantage shall be taken by either party, of the forms in which the questions presented by the demurrer are raised; and if, in the opinion of the Supreme Court, a plea would be necessary to raise such questions, it is further stipulated that the demurrer may be taken as a plea, and considered the same as if duly filed and sworn to, demurrer to and joinder in demurrer therein, in order that the case may be considered on all the questions raised by the demurrer.

The plaintiffs by

SMITH McKINLEY & POOR,
their Solicitors.

The defendant by

HEMPSTEAD & BURT,
his Solicitors.

Endorsed: Filed January 20th, 1854.

T. S. PARVIN,
Clerk.

By BENJ. RUPERT,
Deputy.

Isaac Thomas and others }
vs. }
John G. Shields. }

January Term, 1854, of the U. S. District Court for the District of Iowa, Northern Division, 17th January, 1854.

This cause came on to be heard at this term, and was argued by counsel; and thereupon, upon consideration thereof, it was ordered, adjudged and decreed as follows, viz: That the defendant's demurrer be overruled, and the defendant, abiding by his said demurrer, the prayer of complainants is granted, and the said John G. Shields is decreed and ordered to pay to the complainants, Isaac Thomas and Mary Thomas, the sum of two hundred and fifty-four dollars, and damages for the detention thereof, which the Court finds to be six per cent. per annum, from the 28th of October, A. D. 1846, amounting now to the sum of one hundred and ten dollars and two cents; and to pay to the said Nancy Pirtle the sum of eight hundred and seventy-two dollars, and damages for the detention thereof as aforesaid, amounting now to the sum of three hundred and seventy-seven dollars and seventy-two cents; and to pay to said John B. Goldsberry the sum of three hundred and forty-six dollars, and damages for the detention thereof as aforesaid, amounting now to the sum of one hundred and forty-nine dollars and eighty-seven cents; and to pay to the said Thomas Starks and Elizabeth Starks the sum of three hundred and forty-six dollars, and damages for the detention thereof, as aforesaid, amounting now to the sum of one hundred and forty-nine dollars and eighty-seven cents, and to pay to the said James Pickett and Ann Pickett the sum of three hundred forty six dollars, and damages for the detention thereof, as aforesaid, amounting now to the sum of one hundred and forty-nine $\frac{87}{100}$ dollars. And further, that the complainants have and recover of the defendant, John G. Shields, the sum of sixty-six $\frac{75}{100}$ dollars, their costs in the State of Kentucky, and twenty-eight $\frac{89}{100}$ dollars for the detention of the same, and further that they have and recover of said defendant their cost in this proceeding expended, taxed at forty-five $\frac{55}{100}$ dollars, and that execution issue to enforce the decree aforesaid. Defendant prays an appeal to the Supreme Court, which is granted.

J. J. DYER,
Judge.

Know all men by these, that we, John G. Shields and John H. Emerson, and William G. Stewart, all of the county of Dubuque, and State of Iowa, are held and firmly bound unto Isaac Thomas, and Mary Thomas, his wife, Nancy Pirtle, John B. Goldsberry, Thomas Starks and Elizabeth Starks, his wife, and James Picket and Ann Picket, his wife, in the sum of six thousand dollars, to be paid to the said Isaac Thomas, Mary Thomas, Nancy Pirtle, John B. Goldsberry, Thomas Starks, Elizabeth Starks, James Picket and

Ann Picket, their executors or administrators: to which payment, well and truly to be made, we hereby bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, and dated this twenty-sixth day of January, in the year of our Lord one thousand eight hundred and fifty-four.

Whereas, the above named John G. Shields has prayed an appeal to the Supreme Court of the United States, to reverse a decree rendered against him in Equity, in favor of the said Isaac Thomas and Mary Thomas, Nancy Pirtle, John B. Goldsberry, Thomas Starks and Elizabeth Starks, and James Picket and Ann Picket, by the District Court of the United States in and for the District of Iowa, Northern Division, and which appeal has been duly allowed by said District Court:

Now, therefore, the condition of this obligation is such, that if the above named John G. Shields shall prosecute his said appeal to effect, and answer all damages and costs if he shall fail to make good his plea and appeal, then this obligation to be void; otherwise the same shall be and remain in full force and virtue.

JOHN G. SHIELDS. [SEAL.]
JOHN H. EMERSON. [SEAL.]
WILLIAM G. STEWART. [SEAL.]

Sealed and delivered in presence of
JAMES BURT.

Endorsed: Approved by J. J. Dyer, Judge U. S. Dis. C't, and filed Jan'y 28th, 1854.

T. S. PARVIN,
Clerk.

By B. RUPERT,
Deputy.

THE UNITED STATES DISTRICT COURT,
for the District of Iowa, Northern Division, ss:

I, T. S. Parvin, Clerk of said Court for said district, do hereby certify that the foregoing is a true, correct, and examined copy and transcript of all the papers and record in the foregoing entitled cause, wherein Isaac Thomas and others are plaintiffs, and John G. Shields is defendant, as the same remains of record and on file in my office.

In testimony whereof I have hereunto set my hand, and affixed the seal of said Court, at office in the city of Dubuque, in said district, in the year of our Lord one thousand eight hundred and fifty-four, and of the independence of the United States the 79th year.

[L. S.]

T. S. PARVIN,
Clerk.

By BENJAMIN RUPERT,
Deputy.

Fee for this transcript and certificate, 28 50.

In U. S. Dis. Court,
Nor. Dis. of Iowa:

Isaac Thomas and others }
vs.
John G. Shields. }

Stipulation on appeal to Sup. Court of United States.

The appeal in this cause having been taken by the defendant at the same time when the final decree was rendered and allowed, and no citation thereon being supposed by the counsel for the parties respectively to be necessary, it is hereby stipulated and agreed by said counsel, that if such citation shall be deemed necessary, that the issuing and service of the same in this case is waived on the part of the appellees, and it is agreed that an appearance for the parties shall be entered, respectively, the same as if such citation had been duly issued and served before the Supreme Court of the United States on such appeal in this case; and all irregularity for want thereof is hereby waived.

SMITH, McKINLEY & POOR,
Atty's and of counsel for J. Thomas and others.

Dubuque, *Nov. 1st*, 1854.

HEMPSTEAD & BURT,
Atty's and of counsel for Shields.

Filed 12th Dec., 1854.